

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
)	
Lifeline and Link Up)	WC Docket No. 03-109

REPLY COMMENTS OF SMITH BAGLEY, INC.

Smith Bagley, Inc. (“SBI”), by its counsel, hereby submits these Reply Comments pursuant to the Further Inquiry issued by the Federal Communication Commission (“FCC” or “Commission”) on August 5, 2011 in the above-captioned Lifeline and Link Up proceeding.¹

I. INTRODUCTION AND SUMMARY

SBI takes this opportunity to reply to comments regarding SBI’s proposal to allow one Tier 4 discount per eligible adult tribal resident whose income is at or below the poverty level. First, SBI addresses one commenter’s incorrect characterization of its proposal as allowing only one additional Lifeline discount per household. Second, SBI notes that the *Further Inquiry* selectively mentions SBI’s conservatively high estimate of what its proposal would cost. SBI

¹ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, Public Notice, WC Docket Nos. 11-42, 03-109; CC Docket No. 96-45 (rel. Aug. 5, 2011)(“*Further Inquiry*”).

asks the Commission to give greater weight to SBI's lower, more realistic estimate of the cost of this limited expansion of eligibility under its proposal. Finally, SBI responds to GCI's concern that SBI's proposal would be administratively unworkable. On the contrary, by exempting the poorest tribal residents from the burdensome and intrusive process for determining the composition of a household, SBI's proposal would reduce administrative burdens and facilitate the provision of Lifeline service to those who are most in need.

II. DISCUSSION

A. SBI Has Proposed a "One Per Adult" Rule, Limited to Tribal Areas, For Those Whose Household Income is Below the Poverty Line.

In its comments submitted in the above-captioned dockets on April 21, 2011 ("SBI April 21 Comments"), SBI proposed a special Tier 4 program for low-income residents of tribal lands.² For those tribal residents who can demonstrate income at or below the federal poverty level, the Lifeline program should provide *one Tier 4 credit per adult* for basic voice service.³ SBI noted that this proposed qualification standard is more stringent than the standard used today for the first line, which is currently 135% of the federal poverty guideline.⁴ Tribal residents who are above the poverty line would still be limited to one Lifeline benefit per household.⁵

To estimate the cost of its proposal, SBI first assumed that, given a 100% take rate, an average of one additional eligible adult per household would sign up for service. As SBI noted,

² See SBI April 21 Comments at p. 8.

³ *Id.*

⁴ See *id.* at pp. 8-9.

⁵ See *id.* at p. 9.

this is consistent with the Census data showing an average household size of 2.85 in tribal areas.⁶ However, because the assumed 100% take rate is unrealistically high, SBI also provided another estimate based on the current nationwide take rate of 32%.⁷ Although SBI provided two estimates, only one of which involved providing one additional discount per household, the *Further Notice* sought comment only on SBI's analysis of "the costs associated with providing enhanced Lifeline service to one additional adult per household on Tribal lands."⁸

While the *Further Notice* did not in any way mischaracterize SBI's proposal, the selective description of SBI's cost estimate in the *Further Notice* may have led to some confusion on the part of at least one commenter, who misinterpreted SBI's proposal as making a discount available only to one additional eligible consumer per household in cases where the special income threshold is met.⁹ However, SBI's April 21 Comments clearly stated that "[f]or those tribal residents who can demonstrate income at or below the federal poverty guidelines, the Lifeline program should provide one Tier 4 credit *per adult*."¹⁰ In its comments submitted on August 26 in response to the *Further Notice* ("SBI Further Comments"), SBI again clearly stated that its proposal would provide "one Tier 4 credit per adult" meeting the special income threshold.¹¹

⁶ See *id.* at p. 9, citing U.S. CENSUS BUREAU, The American Community—American Indians and Alaska Natives: 2004, American Community Survey Reports at 16 (2007), <http://www.census.gov/prod/2007pubs/acs-07.pdf>

⁷ See *id.*

⁸ *Further Notice* at p. 6.

⁹ See Gila River Telecommunications, Inc. Further Comments (filed August 26, 2011) at p. 13, citing SBI April 21 Comments at p. 8.

¹⁰ SBI April 21 Comments at p. 8 (emphasis in original).

¹¹ SBI Further Comments at p. 5.

This is an important distinction. While SBI's first cost estimate assumed that an *average* of one additional adult per household would participate in the expanded eligibility, SBI's proposal in no way establishes a *cap* on the number of discounts within a household meeting that income threshold. Given the nationwide average of 2.85 persons per household in tribal areas, it is likely that many households only have one eligible adult, while many other households will have three or more eligible adults – for instance, a nuclear family plus elderly grandparents. For those who are at or below the poverty level, SBI's proposal would ensure access to critical Lifeline service.

Any limitation to one additional eligible adult per household, while preferable to a “one-per-household” restriction, would fall prey to the same consumer burdens and potentially limit access to critical telecommunications service among the poorest residents of tribal lands. Before providing the additional discount, providers would still need to determine whether more than one person at the household already receives Lifeline service. This involves the burdensome process of verifying address information, confirming the existence of a separate household if there is more than one household at the same address, and possibly inquiring into consumers' living arrangements. SBI's proposal would allow tribal residents meeting the special income threshold to avoid these obstacles to obtaining Lifeline service.

Accordingly, in the absence of an overall tribal exemption to any “one-per-household” rule that may be adopted, the Commission should adopt SBI's proposal to provide “one Tier 4 credit per adult” to tribal residents who can demonstrate income at or below the federal poverty guidelines.

B. The Commission Should Consider SBI's Lower, More Realistic Cost Estimate.

As discussed above, SBI provided two estimates: one assuming a 100% take rate among adults meeting the special income threshold, and a more realistic estimate using the 32% take rate for tribal areas nationwide. It is unclear why the Commission only sought comment on the accuracy of SBI's higher estimate. As SBI noted in its April 21 Comments, the use of the nationwide tribal take rate is more likely to yield an accurate estimate. Gila River Telecommunications, Inc. ("GRTI") agreed, noting that "assuming a 100 percent take-rate is unrealistic since the national take-rate is only 32%. Consequently, Smith Bagley's estimate for providing enhanced Lifeline service to one additional adult per household on tribal lands is unreasonably high."¹²

Accordingly, SBI urges the Commission to give greater weight to the lower figure as it considers SBI's proposal.

C. SBI's Proposal Would Reduce, Not Increase, Administrative Burdens.

Contrary to GCI's assertion, SBI's proposal would not be "unworkable from an administrative perspective."¹³ GCI's assertion stems from its concern that providers would have to apply two income criteria instead of one. However, GCI does not adequately explain how this would create significant additional burdens. An additional income qualification could easily be incorporated into employee training and would only require intake forms to be modified once. Moreover, the additional income threshold is easy to apply, since it is equal to the Federal Poverty Guidelines and does not require any further calculation.

In addition, GCI overlooks the fact that SBI's proposal would enable large numbers of very poor tribal residents to avoid the burdensome and potentially intrusive procedures and

¹² GRTI Further Comments at pp. 13-14.

¹³ GCI Further Comments at p. 22.

inquiries required in determining whether there is an additional discount at the household. By exempting the poorest tribal residents from the burdensome and intrusive process for determining the composition of a household, SBI's proposal would reduce administrative burdens and facilitate the provision of Lifeline service to those who are most in need.

III. CONCLUSION

If the Commission adopts a "one per household" rule that does not exempt tribal areas, SBI urges the Commission to adopt its proposal to allow one discount for each qualifying adult on tribal lands who demonstrates an income at or below the federal poverty guidelines.

Respectfully submitted,

SMITH BAGLEY, INC.



By: _____

David A. LaFuria
Steven M. Chernoff
Robert S. Koppel

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678

September 2, 2011