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November 25, 2011

VIA ELECTRONIC FILING

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

Re: Smith Bagley, Inc.
WC Docket No. 11-42 and03-109

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide you with notice of an oral ex parte presentation in connection with the above-captioned proceeding. On November 23, 2011, undersigned counsel, on behalf of Smith Bagley, Inc. ("SBI"), met with Trent Harkrader, Kimberly Scardino, and Garnet Hanly to discuss universal service support on tribal lands.

SBI discussed the extraordinary economic conditions present on the five Native American lands that it serves, highlighting economic data from the Navajo Nation. We discussed the need for Lifeline reform to focus support to areas most in need. On Navajo, for example, many homes continue to lack access to basic services, including power, plumbing and telecommunications. Many substandard housing units are located away from roads, in areas that present substantial challenges for traditional utilities to string power and telephone wires.

Many of these households are poverty-stricken. They often include the elderly, adults and children within the same unit, or community of units. When adults leave for any reason, they must have a mobile telephone to remain in communication with the home, and to make other calls. That creates a significant health and safety benefit at the home, which is left without telephone service.

To remedy this situation, SBI has advocated supported Lifeline service for "one per adult" in situations where the household income is below the federal poverty rate. Funding one

per adult would further the Congressional goal of providing these citizens with access to modern telecommunications services that are reasonably comparable to others across the country.

In response to staff questions, SBI provides information from its April 21, 2011 comments in the above-captioned proceedings. There, SBI estimated that roughly 40% of its 55,000 tribal Lifeline customers or about 22,000 households, are below the poverty line and eligible to be enrolled. Assuming a 100% take rate, this would cost the program approximately $9 million per year, or just over one tenth of one percent of the $8 billion dollar universal service fund. The current tribal participation rate in Lifeline is approximately 32%, so the more likely financial requirement would be just over $3 million per year. SBI also noted that nationwide, tribal poverty levels are significantly lower than on Navajo, at approximately 25%.[1] Using a nationwide tribal population of approximately 2.1 million, this implies that there are about 525,000 people living in poverty, or approximately 185,000 households.[2] If one additional adult in each household were provided tribal lifeline service, again, assuming a 100% take rate, the additional program funding would be $77,700,000 (185,000 x $35 x 12). Using the current 32% take rate, the funding requirement would be approximately $24,864,000, or three tenths of one percent of the entire program size.

SBI also presented demographic data on Navajo to provide the Commission with suggested means of limiting a "one per adult" rule to areas that have extraordinary needs. The poverty rates, per capita income levels, telephone penetration, and other statistics are all useful measuring sticks for the Commission to consider when attempting to target Lifeline support to areas most in need. SBI also suggested that the performance metrics set forth in the FCC's NPRM in this proceeding (FCC 11-32 at paras. 34-37) can be used to determine when the statutory goals are being met.

SBI also discussed the lack of U.S. Postal Service addressing on Navajo. As of March, 2011, the Navajo Nation had established uniform addressing throughout only ten of 110 chapters. Not surprisingly, areas without addresses are often the most in need, as hogans and trailers are often located off of established roads. Areas that lack appropriate addresses present significant challenges in obtaining annual verification of program eligibility. Many of SBI's Lifeline customers do not have regular mail service at home and return rates on surveys and re-certification efforts are much lower than average. SBI asked the Commission to take these extraordinary circumstances into account when establishing certification and verification procedures going forward, and committed to study how it can effectively communicate with consumers in remote areas who are less likely to be responsive and provide further suggestions to the Commission.

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[1] *See* 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.

[2] U.S. Census data indicated an American Indian and Native American population of 2.1 million in 2004, an estimated poverty rate of 25% and average household size of 2.85 persons. *See id.* at 1-2, 10.

SBI also noted that its tribal customers depend on Linkup benefits. SBI waives that portion of the activation fee not covered by the federal program for its tribal Lifeline customers, many of whom find even half of an ordinary activation fee unaffordable.

In sum, targeting Lifeline funding to communities most in need best furthers program goals. Improving health and safety of Americans living in poverty, in remote areas, with limited access to telecommunications, must be a top priority.

If you have any questions or require any additional information, please contact undersigned counsel directly.

A copy of materials distributed at the meetings is enclosed for the record.

Sincerely,

David A. LaFuria
Counsel for Smith Bagley, Inc.

cc: Trent Harkrader, Esq.
Kimberly Scardino, Esq.
Garnet Hanly, Esq.

Enclosures