

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)

Lifeline and Link Up Reform and)
Modernization)

WC Docket No. 11-42

Telecommunications Carriers Eligible for)
Universal Service Support)

WC Docket No. 09-197

Connect America Fund)

WC Docket No. 10-90

**Reply Comments of the
Regulatory Commission of Alaska**

Date: September 29, 2015

T.W. Patch, Chairman

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**Reply Comments of the
Regulatory Commission of Alaska**

The Regulatory Commission of Alaska (RCA) appreciates the opportunity to file reply comments with the Federal Communications Commission (FCC) Second Further Notice of Proposed Rulemaking.¹ The RCA also appreciates the FCC's efforts to bring low-income consumers modern telecommunication services, and notes that the Lifeline program has had significant positive impact on Alaska since its inception and has helped to create competitive service options for equivalent wireline and wireless voice communications that low-income Alaskans might not have otherwise been able to afford. The RCA also acknowledges that there are policy choices that must necessarily accompany decisions on how the FCC will administer

¹ See *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, 30 FCC Rcd. 7818 (2015) ("Lifeline NPRM").

the limited funds designated for Lifeline services, but hopes that the needs of Alaska factor high in that calculus.

Unfortunately, the issues raised in the Lifeline NPRM carry with them the potential for strongly negative implications for Alaska low-income consumers and the carriers that serve them. But before these significant interests are more fully explored in this comment, the RCA would like to take a brief opportunity to address the Lifeline NPRM's question regarding the ongoing relevance of state involvement in the designation and general oversight of eligible telecommunication carriers (ETCs).²

The FCC should preserve the current state-federal ETC partnership by retaining state authority to designate ETCs, evaluate service quality, and provide meaningful oversight for the deployment of network facilities to better ensure that all Alaskans receive access to modern telecommunications services.

The RCA has unique insight into the hardships and difficulties a carrier seeking to serve the diverse and great state of Alaska will face if designated as an ETC, as well as the unique needs of Alaskan consumers; it also stands ready to provide the FCC advice on matters where that insight may prove useful and to help craft workable solutions to uniquely Alaskan telecommunications issues. The RCA is very interested in continuing the state-federal ETC partnership going forward.³

² Lifeline NPRM, at para. 140.

³ For a consonant view, *see* Comments of the National Association of Regulatory Utility Commissioners, WC Docket Nos. 11-92, 09-197, 10-90 (filed August 31, 2015), at 2 (citing the group's adoption of a July, 2015 resolution that "urges the FCC to refrain from disrupting the existing Federal-State partnership in the provision of Lifeline Services by preempting the authority of States to designate ETCs for the provision of advanced telecommunications services to low income consumers in their States").

Just as it plays no active ratemaking role in overseeing the wireless voice ETCs it has designated to date, the RCA recognizes that its role in rate regulation for broadband providers will be similarly limited. The RCA nevertheless maintains that it has a relevant role to play in ensuring all Alaskans have reasonable access to all modern telecommunication services including broadband, which is why the FCC should reconsider any proposal that would truncate any state's role in designating and providing oversight of the ETCs that provide those services within its borders.

The FCC should avoid any regional distinctions that might impair Alaska low-income consumer access to the enhanced tribal Lifeline subsidy based solely on where in Alaska that consumer chooses to live, recognizing Alaska's unique statewide tribal character and the disturbance to the statewide network that would otherwise result.

Of all the proposals discussed in the Lifeline NPRM, the RCA believes the most drastic effects on Alaska Lifeline consumers and carriers would result from the proposed redefinition of what constitutes tribal lands for purposes of qualifying for enhanced tribal Lifeline support. The RCA notes that Alaska carriers and consumers have relied on the enhanced Lifeline support that is made available statewide to qualifying consumers to make Lifeline service throughout Alaska more affordable and competitive. The RCA wants to stress the last point particularly since one of the thrusts of the Lifeline NPRM was the FCC's determination to find ways to make Lifeline service more competitive nationwide.⁴

In their initial comments in response to the Lifeline NPRM, Alaskan carriers laid significant groundwork establishing the case that Alaska is a particularly difficult part of the

⁴ Lifeline NPRM, at para. 121-124.

nation to serve.⁵ The RCA believes one important way to enhance competition for underlying voice and broadband services in costly places like Alaska is to continue and expand programs that create financial incentives for carriers to serve and deploy facilities. This includes preserving the FCC's current Lifeline efforts in Alaska that enhance the purchasing power of low-income Alaskans by providing the enhanced tribal support statewide. Conversely, the RCA notes that the wireless carriers it designates each provide meaningful Lifeline voice offerings that far exceed the baseline minimum standards for which the FCC expressed concern,⁶ and wonders whether those offerings would remain as competitive if enhanced tribal support was suddenly stripped from a large portion of Alaska's low-income population.⁷

The RCA further endorses the Alaskan carriers' showing that (1) all of Alaska is appropriately considered tribal land,⁸ (2) Congress has specifically ensconced this tribal character by designating the entire state as tribal land under the Alaska Native Claims Settlement

⁵ See e.g., Comments of Alaska Rural Coalition, WC Docket Nos. 11-92, 09-197, 10-90 (filed August 31, 2015), at 8 (noting that "Tribal lands tend to lack robust broadband infrastructure even compared to comparable rural areas" and that certain FCC proposals "ignore the fundamental reality that Tribal lands lack infrastructure and resources for robust broadband") and Comments of General Communication, Inc., WC Docket Nos. 11-92, 09-197, 10-90 (filed August 31, 2015), at 3-6, (detailing the many uniquely Alaskan geographic and economic challenges that face carriers).

⁶ See e.g., Comments of General Communication, Inc., at 9-10 (noting that statewide enhanced tribal support has helped the carrier offer "robust, statewide Lifeline service" even in remote villages, that includes unlimited instate voice calling, unlimited text, and an allowance for mobile data) and at 15-16 (expressing doubts on whether these statewide Lifeline plans could continue to be offered if significant changes occur with enhanced tribal support in Alaska).

⁷ Lifeline NPRM, at para. 16 (expressing concern that prepaid wireless offerings have persisted at 250 no-cost minutes).

⁸ See e.g., Comments of Alaska Communications, WC Docket Nos. 11-92, 09-197, 10-90 (filed August 31, 2015), at 12-13 (noting that all of Alaska are tribal lands); Comments of Alaska Rural Coalition, at 17-18 (same); and Comments of General Communication, Inc., at 9-10 (same).

Act (“ANSCA”),⁹ and (3) even Anchorage, a place that the FCC singled out as a location that may be inappropriate to continue enhanced tribal support,¹⁰ has a significant Alaska Native population and serves as the transportation, economic, and human services hub on which all Alaskan communities continue to rely.¹¹ The RCA notes that the FCC has to date helped to provide a unified front with respect to the federal treatment of Alaska as uniquely and entirely made up of tribal lands,¹² and believes the FCC should not abandon that position lightly or without rigorous study and appropriate tribal engagement.¹³

The FCC should continue to qualify low-income Alaskans living in Anchorage for enhanced tribal support because of its critical importance for both Alaska Natives and the telecommunication, transportation, and economic services Anchorage provides the rest of the state.

The RCA cautions that any Lifeline distinctions drawn between Anchorage or other more urban areas of Alaska and the rest of Alaska risks impairing a significant Alaska Native

⁹ 43 U.S.C. § 1601 *et seq.* For a brief description of ANSCA, *see* Comments of General Communication, Inc., at 9-10.

¹⁰ Lifeline NPRM, at para. 169-170.

¹¹ *See generally* Comments of General Communication, Inc., at 3-4, 6-14.

¹² *See* 20 CFR § 20.1(v), the Bureau of Indian Affairs definition of “reservation”, which includes “Alaska Native regions established pursuant to [ANSCA]”. *See also Federal-State Joint Board on Universal Service*, Twelfth Report and Order, Memorandum Opinion and Order of Further Notice of Proposed Rulemaking, FCC 00-208, 15 FCC Rcd. 12,208, 12,217-18 ¶ 16-17 (2000) (adopting 25 C.F.R. § 20.1(p) and 25 C.F.R. § 20.1(v) for purposes of the Lifeline definition of “tribal lands”).

¹³ The RCA echoes the comments of the Choctaw Nation of Oklahoma, where the Nation stressed the need for appropriate tribal engagement that precedes any formal proposal to alter the tribal lands definition on which any enhanced subsidy may turn. *See* Comments of the Choctaw Nation of Oklahoma, WC Docket Nos. 11-92, 09-197, 10-90 (dated August 7, 2015) at 2.

population that still suffers disparate economic standing in this country¹⁴ from accessing the enhanced support the FCC has previously made available. The RCA notes that the Lifeline NPRM takes this matter into consideration without relying on any showing that Alaska 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.¹⁵

While the RCA recognizes that Lifeline subsidies are uniquely personal, it is clear the subsidies provide ancillary benefits to the network by creating customers and deployment incentives for carriers that would not otherwise exist.¹⁶ The RCA contends that any contemplated distinctions between urban and rural tribal lands in Alaska presents a direct threat to the stability of the greater statewide network since one of the stated purposes for the enhanced tribal support is to address “the unavailability and unaffordability of telecommunications service on tribal lands.”¹⁷ The Alaska Natives that live in Anchorage regularly travel to rural parts of the state, just as the Alaska Natives that live in the villages find it necessary to regularly travel to

¹⁴ See e.g., Comments of Alaska Communications, at 12-13 (noting that poverty remains an acute problem for many Alaska Natives, and suggesting that the state’s most vulnerable population would be threatened if enhanced tribal support were changed); Comments of the Alaska Rural Coalition, at 18 (stating that “consumers in 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”); and Comments of General Communication, Inc., at 11-13.

¹⁵ For a similar concern, see Comments of the Choctaw Nation of Oklahoma, at 2 (stating that “thousands of Choctaw families who live in urban Oklahoma areas ... reside in lower-income neighborhoods that are nearly as isolated from telephone service infrastructure as are Choctaw families in rural southeastern Oklahoma”).

¹⁶ See e.g., Comments of General Communication, Inc., at 16 (noting the ancillary benefit to the state-wide network from including Anchorage’s tribal lands for qualification for enhanced Lifeline subsidies).

¹⁷ Lifeline NPRM at para. 169.

Anchorage and other communities along Alaska's very limited road system, and rely on the statewide network that enhanced tribal support helps foster. Making the enhanced tribal support available to all Alaska consumers helps to ensure that a robust telecommunications network is deployed state-wide while simultaneously recognizes the unique human migratory patterns that Alaska presents that the realities of living in Alaska seems to necessitate, and which serve to make the urban and rural portions of the state mutually reliant.¹⁸

And while there is no disputing that Anchorage is a modern city, with competitive choices for both voice and broadband services available at quality and capacity that the rest of the American public may find entirely acceptable, these facts alone do not necessarily mean that Anchorage is similarly low-cost to serve as similarly sized American communities. Construction and labor costs are higher in Anchorage, its lower than average population density makes defraying network costs more difficult since more facilities are required to serve the same relative population, and, due to the shear distance to a Tier 1 Internet point of presence, the cost of transport for all telecommunications traffic is necessarily elevated.¹⁹ A reduction to the enhanced tribal subsidy would likely cause financial hardship to the Anchorage Lifeline customers directly affected, but also to the modern Lifeline service offerings that carriers are able to presently make available statewide.²⁰

¹⁸ Comments of General Communication, Inc., at 11-13; Comments of Alaska Communication, at 8.

¹⁹ Comments of General Communication, Inc., at 14-15 (noting the "enormous infrastructure costs concentrated on a relatively small population base in Alaska" that maintaining a dedicated undersea fiber optic link for roughly 1500 miles necessarily entails).

²⁰ Comments of General Communication, Inc., at 15-16 (describing likely affects of two-tiered Tribal subsidy on its statewide network).

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. If the FCC does, the RCA is confident that the FCC will quickly realize that when it comes to telecommunications, Anchorage along with its network (1) plays a quintessentially unique role in providing regional connectivity to other tribal lands across the state, (2) boasts by far the greatest concentration of potential tribal customers of any similarly sized community, and (3) is entirely deserving of continued enhanced tribal subsidies. The RCA therefore urges the FCC to preserve Alaska's unified tribal character by continuing to provide statewide enhanced tribal support.

The FCC should avoid establishing national minimum service levels for Lifeline broadband or voice service that would broadly apply to Alaska carriers because of inherent logistical difficulties, infrastructure limitations, and elevated costs associated with both voice and broadband service in Alaska.

As was touched on above, the FCC has long been aware that Alaska faces unique network costs and limitations that other carriers operating across the nation may not.²¹ The RCA believes these cost differentials and network limitations, particularly with respect to middle mile facilities, not only support a higher Lifeline subsidy for all of Alaska's low income consumers, they also support relaxed service requirements for the carriers that would provide Lifeline broadband and voice services. The RCA is concerned that if the FCC carries forward with its proposal to establish national wireless and wireline broadband Lifeline standards, as well as

²¹ See e.g., Reply Comments of the Regulatory Commission of Alaska, filed into Connect America Fund, WC Docket no. 10-90, dated February 17, 2012, at 4-10, 16 (discussing significant infrastructure and construction cost differentials, particularly with respect to middle mile facilities that together require unique approaches for Alaska with regard to revised support mechanisms).

greatly augmented voice service standards,²² the likely result, at least in Alaska, will be to effectively price out of the market the low-income consumers the Lifeline program was specifically designed to empower. While the RCA fully supports extending the principals of universal service to broadband services, the RCA hopes the FCC uses its foresight to ensure that the goals it sets for Alaska carriers realistically account for the inherent differences in providing telecommunications service across Alaska.

The FCC should preserve the state’s role in identifying additional state-specific low income programs that would confer Lifeline eligibility.

As with its current role of designating ETCs that operate in Alaska, the RCA remains committed to the state-federal partnership whereby the RCA actively identifies state-specific low-income programs in which participation serves to extend Lifeline eligibility to Alaska low-income consumers.²³ This is yet another example of an important role a state commission can and should play in helping advance the interests of its low-income constituents, and the FCC should make specific efforts to retain this and other important roles state commissions play in the well-crafted state-federal ETC partnership that has developed over time.

Before permitting any ETC to forgo the obligation to offer any Lifeline service, the FCC should ensure that sufficient support for the underlying service is made available to any ETC mandated with providing it.

The RCA is fully cognizant of the important role enhanced tribal Lifeline support offered to all low-income Alaskans has had on creating a competitive environment for traditional voice

²² See generally Lifeline NPRM, at para. 34-51.

²³ See e.g., 3 AAC 53.390(b)(2)(J) & (K), identifying the Alaska Temporary Assistance Program and the Alaska Adult Public Assistance Program as two additional low-income programs qualifications for which would extend Lifeline eligibility to any Alaskan consumer.

telecommunication services across the state, which is one of the primary reasons the RCA has so strongly advocated in this comment that this subsidy should be retained. The RCA, however, is sympathetic to the concerns Alaskan carriers raise about the prospect of having to provide statewide broadband service without any guarantee of necessary support. The RCA notes that the obstacles those carriers face in meeting any potential broadband service obligation are daunting and are in no way solved by simply continuing statewide enhanced tribal support for all low-income Alaskans.

While often herculean efforts have been made by Alaskan carriers to improve telecommunications infrastructure statewide, the state of facilities deployment both for broadband and wireless service is simply at a different stage than the rest of the country. It is therefore not simply a task of finding appropriate incentives to add low-income consumers to existing broadband networks; with Alaska the FCC must also address creative ways of incentivizing the build out of broadband capable networks. Unless that particularly difficult nut can be cracked, the RCA is concerned that all Alaskans, not just low-income consumers, are in danger of experiencing an ever-widening gulf in the nature and quality of telecommunication services that the market simply cannot close on its own.

Before seriously considering making any Lifeline service offering optional anywhere in Alaska, the RCA urges the FCC to continue to work with Alaska carriers to devise a workable high cost support model for Alaska that makes telecommunications infrastructure across the state a strategic priority,²⁴ and that quickly provides fair, ongoing, and stable high cost support

²⁴ Signaling an important shift in Arctic policy, President Obama's recent trip to Alaska coincides with other efforts his administration is making to further make the United States an Arctic power. The RCA believes modern telecommunications infrastructure is critical to that national strategic effort.

necessary to build that telecommunications infrastructure that is conditioned on firm, near-term deployment deadlines.

RESPECTFULLY SUBMITTED this 29th day of September, 2015



Regulatory Commission of Alaska
T.W. Patch, Chairman