



NATIONAL CONGRESS OF AMERICAN INDIANS

April 11, 2016

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NCAI HEADQUARTERS

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The Honorable Greg Walden
Chairman
Energy & Commerce Committee
Subcommittee on Communications and
Technology
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member
Energy and Commerce Committee
Subcommittee on Communications and
Technology
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

**RE: NCAI OPPOSITION TO H.R. 4884, THE *CONTROLLING THE UNCHECKED
AND RECKLESS BALLOONING OF LIFELINE ACT OF 2016***

Dear Chairman Walden and Ranking Member Eshoo:

On behalf of the National Congress of American Indians (NCAI), the oldest, largest, and most representative organization of American Indian and Alaska Native tribal governments, I write to express our opposition to H.R. 4884 the *Controlling the Unchecked and Reckless Ballooning of Lifeline Act of 2016* (CURB Lifeline Act). Passage of the CURB Lifeline Act would undermine recent efforts by the Federal Communications Commission (FCC or Commission) to modernize and reform the Lifeline program to support voice and broadband services for low-income consumers. NCAI does not support capping the program at \$1.5 billion annually, prohibiting subsidy use for devices, or prohibiting voice-only services.

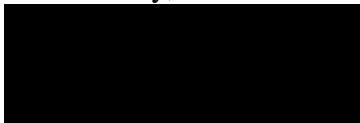
At the FCC's recent Open Meeting on March 31st the Commission adopted certain reforms to the Lifeline program. Among other things, the Commission capped the Lifeline program at \$2.25 billion annually; authorized support for standalone voice or broadband services, or the option to bundle these services; requirements for mobile devices to have Wi-Fi and hotspot functionality; and built on 2012 reforms to cut waste, fraud, and abuse by creating a third party National Eligibility Verifier. These reforms, among others to be released in the final rulemaking, seek to modernize a program to support low-income consumers and especially those residing on tribal lands.

In addition to the Lifeline \$9.25 base monthly phone bill discount, low-income residents of tribal lands are eligible for an enhanced tribal discount of up to an additional \$25.00. This enhanced tribal Lifeline subsidy was adopted by the Commission in 2000 in recognition of the telecommunications and economic disparities prevalent throughout Indian Country. Coupled with funding from the Universal Service Fund (USF) High Cost program, Lifeline has been one of the most successful USF programs in incentivizing the build out and adoption of vital communications services on tribal lands.

According to the FCC's recent 2016 Broadband Progress Report, tribal lands have the highest disparity nationwide in access to advanced telecommunications services. The Commission found that 41 percent of tribal lands overall lacked access to these vital services, and also further noted the disparity of connections on rural tribal lands with 68 percent of rural tribal areas lacking access. While the Lifeline program is not intended to provide advanced broadband speeds, it is important to recognize and safeguard the program to ensure low-income residents of tribal lands are able to access vital communications for healthcare, emergencies, social services, and use for job searching.

The CURB Lifeline Act would severely hamper the Lifeline program and its purpose to provide low-income consumers with vital communications services. Passage of the Act would inevitably, if not immediately, impact services offered to tribal lands and would undermine decades-long efforts to bridge the Digital Divide in Indian Country. We are hopeful that you will stand with Indian Country in opposing efforts to further restrict a program that has been so vital in providing communications service to tribal lands.

Sincerely,



Jacqueline Pata
Executive Director
National Congress of American Indians

Att: NCAI Resolution #MSP-15-036, "Preserve the Universal Service Fund Lifeline & Link Up Programs for All Tribal Lands and All Native Peoples"
NCAI Resolution #TUL-13-061, "Request that the Federal Communications Commission Preserve and Protect the Tribal Lifeline and Link-Up Programs"



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MSP-15-036

TITLE: Preserve the Universal Service Fund Lifeline & Link Up Programs for All Tribal Lands and All Native Peoples

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Soboba Band of Luiseno Indians

ROCKY MOUNTAIN
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Ron Richardson
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SOUTHERN PLAINS
Stephen Smith
Kiowa Tribe

SOUTHWEST
Manuel Heart
Ute Mountain Ute Tribe

WESTERN
Len George
Fallon Paiute Shoshone Tribe

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, upon passage of the Telecommunications Act of 1996 the Universal Service Fund (USF) was charged by Congress to provide affordable, nationwide telecommunications service for low-income consumers, schools and libraries, high cost areas, and rural health care providers; and

WHEREAS, the Lifeline program was created under President Reagan's Administration to provide low-income consumers with a discounted monthly telephone bill, and this monthly discount was expanded under President Bush's Administration to support wireless cell phone services; and

WHEREAS, eligible low-income consumers participating in the Lifeline program can access a monthly discount of \$9.25 on their telephone bills, and in recognition of the historic and disparate levels of telecommunications services that persisted on tribal lands, the Federal Communications Commission (FCC) expanded the Lifeline program in 2000 to provide an increased Lifeline discount for residents of tribal lands; and

WHEREAS, in addition to qualifying for the \$9.25 monthly discount, low-income consumers residing on tribal lands qualified for an additional subsidy up to \$25.00, for a total monthly telephone discount of up to \$34.25 for residents of tribal lands; and

WHEREAS, on June 18, 2015, the FCC adopted a Second Further Notice of Proposed Rulemaking (FNPRM) and a Report and Order (R&O) to reform and modernize the Lifeline program to support access to broadband; and

WHEREAS, among the many proposals and questions announced in the FNPRM many will affect tribal communities such as the proposal to establish minimum service levels for both broadband and voice service, elimination of certification by telecommunications companies and establishing a third-party national entity to verify eligibility of applicants, and whether the current Tribal Lifeline and Link Up subsidies achieve the affordability goals for tribal lands residents; and

WHEREAS, among items adopted in the R&O, the FCC ruled to redefine its definition of tribal lands (47 CFR § 54.400(e)) to re-designate what constitutes “former reservations in Oklahoma”, and instead references the Historical Map of Oklahoma reservation lands from 1870 to 1890 provided by the Department of the Interior, Bureau of Indian Affairs; and

WHEREAS, the FCC’s new definition of tribal lands under 47 CFR § 54.400(e) will come into effect on December 15, 2015, and prior to the implementation of the new definition, the FCC has been charged with consulting tribal nations in Oklahoma to identify any additional maps or geospatial data that should be identified to recognize the boundaries of Oklahoma tribal lands; and

WHEREAS, NCAI Resolution #TUL-13-061, “Request that the Federal Communications Commission Preserve and Protect the Tribal Lifeline and Link-Up Programs” was adopted at NCAI’s 70th Annual Convention in Tulsa, Oklahoma in October 2013, and called for the FCC, Congress, and the Administration to preserve the continuation of the Tribal Lifeline and Link Up programs for all tribal lands and all Native peoples.

NOW THEREFORE BE IT RESOLVED, that NCAI reaffirms Resolution #TUL-13-061, and urges Congress, the Federal Communications Commission (FCC), and the Administration to preserve, protect, and expand the Tribal Lifeline and Link Up programs to support broadband and voice services for all tribal lands and all Native peoples; and

BE IT FURTHER RESOLVED, that under the current Reform and Modernization of the Lifeline program, NCAI urges the FCC to adopt proposals that do not adversely affect Native recipients receiving and eligible to receive the Tribal Lifeline subsidy by the redefinition of tribal lands under 47 CFR § 54.400(e); and

BE IT FURTHER RESOLVED, that the FCC preserve its definition of “former reservation lands in Oklahoma” as specified by the Oklahoma Corporation Commission, and that NCAI rejects and requests the withdraw of the FCC’s use of the Historical Map of Oklahoma Reservations between 1870 and 1890; and

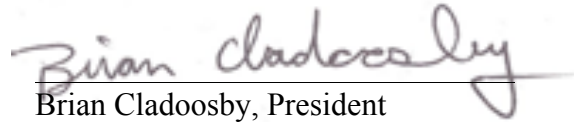
BE IT FURTHER RESOLVED, that NCAI urges the FCC to have meaningful government-to-government consultation with sovereign tribal nations consistent with *Executive Order 13175* and the FCC’s *2000 Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*; and

BE IT FURTHER RESOLVED, that NCAI supports the FCC’s focus of enhanced tribal support provided that it does not exclude, urban, suburban, or high density areas within tribal lands; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Midyear Session of the National Congress of American Indians, held at the St. Paul River Centre, St. Paul, MN, June 28 to July 1, 2015, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #TUL-13-061

TITLE: Request that the Federal Communications Commission Preserve and Protect the Tribal Lifeline & Link-Up Programs

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Brian Cladoosby
Swinomish Tribe

FIRST VICE-PRESIDENT
Michael Finley
Colville Tribes

RECORDING SECRETARY
Robert Shepherd
Sisseton Wahpeton

TREASURER
Dennis Welsh, Jr.
Colorado River Indian Tribes

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Tribal Lifeline and Link-Up Programs were created to provide low-income tribal individuals vital access to communications services; and

WHEREAS, the Tribal lifeline Program was created to provide a discount to Native individuals on their monthly landline phone bill and later expanded to include mobile wireless services, and the Tribal Link-Up Program was created to cover one-time, build-out costs and activation charges to connect vital anchor institutions and housing on tribal lands; and

WHEREAS, on January 31, 2012, the Federal Communications Commission (FCC) adopted a Report & Order and Further Notice of Proposed Rulemaking regarding Lifeline and Link-Up Reform and Modernization (2012 Reform and Modernization Order); and

WHEREAS, in the 2012 Reform and Modernization Order included the establishment of a National Lifeline Accountability Database, establishing a national eligibility criteria, clarification of reporting requirements, and the phase out of Link Up support except for recipients on tribal lands; and

WHEREAS, these reforms were meant to eliminate waste, fraud, and abuse in the Program and were estimated to save the USF up to \$2 billion over the following three years since the 2012 Reform and Modernization Order was adopted; and

WHEREAS, on February 12, 2013 the FCC stated in a News Release that the Lifeline Program reforms were on track to eliminate an additional \$400 million in waste, fraud, and abuse in 2013 and that reforms were on schedule to save more than \$2 billion by the end of 2014, exceeding the estimated savings mentioned in the 2012 Reform and Modernization Order; and

WHEREAS, the USF was established by the 1996 Telecommunications Act to ensure access to telecommunications services for all schools, libraries, and low-income households, and close the Digital Divide; and

WHEREAS, the USF is funded by all telecommunications consumers in a monthly fee assessed by all telecommunications carriers; and

WHEREAS, the 2012 Reform and Modernization Order is met and will potentially exceed the previous projections in savings to the USF, however, the Program has come under ever-increasing attacks from some Members of Congress and national media outlets that have inaccurately claimed that the entire Program is ‘wasteful spending’ funded by tax dollars; and

WHEREAS, tribal citizens in many tribal communities do not have access to basic telephone services nor broadband services; and

WHEREAS, the FCC has initiated Broadband Adoption Lifeline Pilot Programs to establish baseline data to support further modernization of the Lifeline Program expanding to broadband technologies; and

WHEREAS, the Lifeline Program has been one of the most influential programs supporting tribal citizens living in rural and underserved tribal lands to receive basic telephone service and access to an analog safety-net, and without Lifeline, tribal lands will remain excluded from telecommunications services; and

WHEREAS, in recognition of the disproportionately low telephone subscribership levels in tribal areas, the FCC has adopted rules to make enhanced Lifeline support available for low-income residents residing on tribal lands; and

WHEREAS, the FCC, as the primary agency point-of-contact regarding all matters related to the USF and its programs, should continue to work with Members of Congress and the Administration to ensure that vital Lifeline and Link-Up services are not eliminated, and that current and future funding levels should be preserved and increased for tribal lands due to the low penetration rates of telephone and broadband services.

NOW THEREFORE BE IT RESOLVED, NCAI requests the FCC, Congress, and the Administration to preserve the continuation of the Tribal Lifeline and Link-Up Programs for tribal lands and all Native peoples; and

BE IT FURTHER RESOLVED, that the FCC, Congress, and the Administration increase current and future funding levels for the Tribal Lifeline and Link-Up Programs to continue vital telecommunications deployment on tribal lands; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.



President

ATTEST:



Recording Secretary