

the Commission cited 1990 Census data indicating that, although the nationwide average penetration rate for those with incomes below \$5,000 living in rural areas was 78.7 percent, the telephone penetration rates for individuals on tribal lands at the same income level averaged 46.6 percent. Further, the 1990 Census found that only 53 percent of those living on tribal lands had basic telephone service, as opposed to 94 percent for the country as a whole.

13. Recently, the Census Bureau has begun to issue data from the 2000 Census indicating that average telephone penetration rates on tribal lands have increased appreciably from the levels reported in 1990. The average telephone penetration rate for all tribal areas reported by the 2000 Census is 83.1 percent. U.S. Bureau of the Census, "Occupancy, Equipment, and Utilization Characteristics of Occupied Housing Units: 2000," Table GCT-H8. However, despite the improvement that this census data indicates in access to basic telephone service experienced in some tribal areas, the data also reveals that telephone penetration rates on virtually all tribal lands remain well below the 97.6 percent penetration rate now found in the country as a whole. Indeed, certain tribal lands continue to have unusually low telephone penetration levels despite gains in subscribership numbers since the 1990 Census. For example, although the penetration rates of tribal areas such as the Navajo Reservation, Fort Apache Reservation, and Mississippi Choctaw Reservation and Trust Lands each increased by over 20 percent since the 1990 Census, these tribal lands continue to have very low penetration rates (39.9 percent, 57.2 percent, and 62.6 percent, respectively). The Commission therefore believes that it is appropriate to continue to develop and apply policies aimed at promoting further deployment of wireless services to tribal lands. In this regard, the Commission seeks comment on whether and to what extent it should use the updated information now available regarding tribal penetration rates to modify certain aspects of the bidding credit. First, should the credit formula be adjusted to require the use of 2000 Census figures instead of 1990 Census figures in calculating tribal penetration for purposes of determining eligibility for the credit? Second, to the extent that the 2000 census indicates that penetration rates in some tribal areas have risen above 70 percent but remain below the national average, should the Commission modify the bidding credit formula so that tribal areas with

penetration rates greater than 70 percent but some percentage below the national average are eligible for the credit? If the Commission concludes that it is desirable to raise the level at which tribal areas are eligible for a credit, what should the benchmark be? Further, with respect to tribal lands that have been identified by the 2000 Census as continuing to have unusually low penetration rates, the Commission requests comment on whether it should make adjustments to the bidding credit to create additional and more targeted incentives for wireless carriers to provide services in such areas.

#### D. Extending the Tribal Lands Bidding Credit to Adjacent Non-Tribal Areas With Low Penetration Rates

14. The Commission also solicits comment on whether it should extend bidding credits to non-tribal areas with penetration rates that fall below the percentage threshold used to calculate eligibility for the tribal credit. Specifically, the Commission seeks comment on whether it should allow a limited expansion of the tribal lands bidding credit program that would allow carriers who obtain bidding credits in order to serve qualifying tribal lands to seek additional credit for extending their coverage to immediately adjacent non-tribal areas that have comparably low penetration rates.

15. In the *R&O*, the Commission limited the bidding credit program to qualifying tribal areas with penetration rates of 70 percent or less because the Commission determined that this limitation would target the tribal communities with the greatest need for access to telecommunications services. The Commission concluded that it would be appropriate to limit application of the bidding credit to tribal lands because the Commission believed that, even though there are non-tribal areas with penetration rates below the national average of 94 percent (as reported in the 1990 Census), almost all non-tribal areas have telephone penetration rates higher than 70 percent. In reviewing this proceeding, however, the Commission recognizes that there may be certain areas abutting tribal lands that also lack adequate access to telecommunications services. It is likely that some non-tribal areas share with their neighboring tribal communities the same barriers to access, such as geographic remoteness, sparse population clusters, and low income levels. Further, it is likely that areas adjacent to tribal communities also have significant Native American populations.

16. Extending the bidding credit to underserved non-tribal areas could serve dual purposes. First, extending the credit furthers the objectives of the Communications Act which directs the Commission to ensure the rapid and efficient deployment of wire and radio communications "to all the people of the United States." See 47 U.S.C. 151. Further, allowing applicants to seek bidding credits for non-tribal areas immediately adjacent to tribal communities may make it more likely that entities will seek bidding credits to serve tribal lands. Accordingly, the Commission seeks comment on whether it should give those applicants who commit to serve a qualifying tribal area the ability to augment the bidding credit for also serving adjacent non-tribal areas.

17. In the event that the bidding credit is extended to non-tribal areas, the Commission seeks comment on how to define the geographic areas that would trigger eligibility for an additional credit amount. For example, is it suitable to use county-wide penetration rates to establish eligibility, or, given the large size of certain counties, would the use of county-wide figures fail to accurately gauge the penetration level of some specific areas? Alternatively, the Commission seeks comment on whether measuring telephone penetration based on smaller geographic areas would more accurately reflect underserved areas. For example, the Census Bureau tabulates data according to a variety of small geographic areas, such as census tracts or census blocks.

18. The Commission also requests comment on the appropriate certification process; e.g. is it sufficient that the applicant itself certify that the applicable non-tribal area has a telephone penetration rate that meets the percentage threshold to qualify for the credit? In particular, the Commission requests comment on the possible method(s) that would enable it to accurately target the non-tribal areas that share the same characteristics of tribal lands and are thus appropriate to target for support through bidding credits. Although it is likely that areas adjacent to tribal lands have significant tribal populations, and may possess characteristics (e.g. geographic remoteness, low subscribership) that similarly warrant support, the Commission recognizes that certain areas immediately adjacent to tribal lands include highly populated, urban areas. The Commission therefore requests comment on any widely applicable methodology that would enable the Commission to easily distinguish between urban/highly