

separate designation framework for carriers seeking designation on tribal lands does not extend to "near reservation" areas, as defined by BIA. As defined by BIA, near reservations are designated areas or communities that are adjacent or contiguous to reservations where financial assistance and social service programs are provided. Because these areas often extend substantially beyond the exterior boundaries of reservations, we do not believe they invoke the same jurisdictional concerns and principles of tribal sovereignty associated with areas within the exterior boundaries of reservations. Therefore, pending resolution of the issues presented in the *Tribal Stay Order*, 65 FR 58721, October 2, 2000, petitions for designation filed under section 214(e)(6) relating to "near reservation" areas will not be considered as petitions relating to tribal lands. Petitioners seeking ETC designation in such areas must follow the procedures outlined in the *Twelfth Report and Order* for non-tribal lands prior to submitting a request for designation to this Commission under section 214(e)(6).

11. We also take this opportunity to confirm that the definition of "reservation" and "near reservation" for purposes of the universal service programs remains the same as that adopted in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*. Therefore, within the context of the universal service programs, the term "reservation" means "any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments." The term "near reservation" is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) Number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe

and reservation; (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area.

12. As noted, the Commission defined the term "reservation" in a manner consistent with section 20.1(v) of the BIA regulations and stated that any future BIA modifications to the definition of "reservation" would also apply to the definitions adopted in the *Twelfth Report and Order*. Following the release of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, BIA revised its definition of "reservation" in such a way as to no longer explicitly include "former reservations in Oklahoma" or "Indian allotments." Residence in a "service area," rather than a "reservation," is the new geographic eligibility requirement to receive financial assistance. As defined by BIA, "service area" means a geographic area, designated by the Assistant Secretary of Indian Affairs, where financial assistance and social services programs are provided. Such a geographic area designation can include a reservation, near reservation, or other geographic location. Under this mechanism, tribes may also request alternative service area designations. As noted, BIA has also eliminated section 20.1(r) defining near reservations and replaced it with a similar definition now contained in section 20.100.

13. To alleviate the potential for ongoing administrative uncertainty, we conclude that any future modifications to the definition of "reservation" or "near reservation" will take effect in the context of the universal service programs only upon specific action by the Commission. In so doing, we decline to incorporate BIA's recent revisions to the definition of "reservation." Notwithstanding the fact that BIA modifications did not include "former reservations in Oklahoma" and Indian allotments in its definition of "reservation," BIA continues to provide financial assistance in these areas. Accordingly, we find that maintaining the current definition of "reservation" for universal service purposes will be consistent with BIA's action in continuing to provide assistance in these areas, and with the Commission's commitment to increase subscribership and improve access to telecommunications services. We believe that this will ensure that the definition of "reservation" will remain consistent with the underlying goals of the Commission's enhanced Lifeline and Link-Up programs.

3. Universal Service Low-Income Programs

14. *SDITC Petition*. We grant SDITC's request to reconsider the Commission's finding that non-wireline carriers are eligible to receive Link-Up support for that portion of a handset that receives wireless signals. Upon reconsideration, we conclude that Link-Up should not offset any costs of a wireless handset. The Commission's rules preclude Link-Up support for facilities or equipment that fall on the customer side of the demarcation point. Although the Commission has never defined a demarcation point for wireless service, it has generally treated wireless handsets for purposes of bundled marketing of equipment and services as Customer Premises Equipment (CPE), which is equipment that falls on the customer side of the demarcation point between customer and network facilities. At the same time, we recognize that some portion of a wireless handset may perform functions analogous to the functions on the network side of the demarcation point, which, in the wireline context, would be eligible for Link-Up support. Nevertheless, under all the circumstances, we find that Link-Up should not support any costs of a wireless handset. In reaching this decision, we consider the difficulty of defining what portion, if any, of a wireless handset is on the network side of the demarcation point, as well as the difficulty in isolating the costs of such portion. We note that we make this finding regarding wireless handsets solely for purposes of determining what charges are eligible for Link-Up discounts. We further note that non-wireline carriers remain eligible to receive Link-Up support for the "customary charge for commencing telecommunications service," as defined in § 54.411 of the Commission's rules, including wireless activation fees. Where wireless telecommunications service is provided to an eligible resident of tribal lands, such charges may also continue to include "facilities-based" charges associated with the construction of facilities needed to initiate service, as provided in § 54.411(a)(3).

15. *Florida Commission Petition*. We deny the Florida Commission's requests for reconsideration. We disagree with the Florida Commission's contention that the expansion of the existing Lifeline program may be without clear statutory authority and without support in the record. As the Commission explained in the *Twelfth Report and Order and Further Notice of Proposed*