

Rulemaking, the authority to provide additional federal Lifeline and Link-Up assistance and broaden consumer qualification criteria for low-income consumers on tribal lands derives from sections 1, 4(i), 201, 205, and section 254 of the Act. The Commission concluded that the unavailability or unaffordability of telecommunications service on tribal lands is at odds with its statutory goal of ensuring access to such services to “[c]onsumers in all regions of the Nation, including low-income consumers.” The Commission further concluded that the lack of access to affordable telecommunications services on tribal lands is inconsistent with its statutory directive “to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient Nationwide * * * wire and radio communication service, with adequate facilities at reasonable charges.” The Commission also determined that its actions were consistent with its general authority to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.”

16. In addition, the evidence and record before us at the time supported the expansion of the Lifeline and Link-Up program and nothing on reconsideration persuades us otherwise. In reaching the decision to enhance Lifeline and Link-Up assistance, the Commission relied on statistical evidence that demonstrated that American Indian and Alaska Native communities on average have the lowest reported telephone subscribership levels in the country. For example, the Commission noted that, according to the most recent census data, although approximately 94 percent of all Americans have a telephone, only 47 percent of Indians on reservations and other tribal lands have a telephone. In addition to these statistics, other statistical evidence, as well as the majority of comments, demonstrated that low incomes and poverty are the key reasons for low subscribership levels on tribal lands. Along with these conditions, the record also identified other factors as impediments to subscribership. These included: (1) The cost of basic service in certain areas (as high as \$38 per month in some areas); (2) the cost of intrastate toll service (limited local calling areas); (3) inadequate telecommunications infrastructure and the cost of line extensions and facilities deployment in

remote, sparsely populated areas; and (4) the lack of competitive service providers offering alternative technologies. Finally, the record demonstrated that non-Indian, low-income households on tribal lands may face the same or similar economic and geographic barriers as those faced by low-income Indian households. After careful consideration of this evidence, the Commission concluded that specific and immediate action was needed to remedy the disproportionately lower levels of infrastructure deployment and subscribership prevalent among tribal communities to ensure affordable access to telecommunications services in these areas.

17. We also reject the Florida Commission’s contention that the creation of a fourth tier of federal Lifeline support available to eligible telecommunications carriers serving qualifying low-income individuals living on tribal lands “may raise issues of discrimination.” Specifically, the Florida Commission “questions whether there is any discriminatory impact by singling out Native American and Alaska tribal areas for the benefit of up to an additional \$25.00 per primary residential line.” The Florida Commission adds that “[i]f the goal is to increase subscribership for these populations, we respectfully request first increasing efforts to enroll qualified low-income Native Americans and Alaskan Natives in the already existing Lifeline and Link-Up programs.”

18. The goal of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* was not, as the Florida Commission implies, to increase subscribership solely among low-income Native American and Alaskan Natives. As explained, the Commission recognized that American Indian and Alaska Native communities, on average, have the lowest reported telephone subscribership levels in the country. In response, the Commission adopted amendments to its universal service rules to provide additional, targeted support under the low-income programs for all qualifying low-income individuals on tribal lands, as opposed to limiting these benefits solely to qualifying low-income tribal members on tribal lands. In addition, the Commission noted that its efforts in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking* represent only the first step in addressing the causes of low subscribership within underserved and unserved areas. The Commission therefore continues to monitor the causes of low subscribership throughout the Nation and will be addressing this

important issue on an ongoing basis. Accordingly, we do not find that our rules raise issues of discrimination.

4. Qualification Criteria for Enhanced Lifeline and Link-Up Service

19. We also clarify, on our own motion, the Federal default qualification criteria for enhanced Lifeline and Link-Up service as set forth in § 54.409(c) of the Commission’s rules. As discussed, in the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, the Commission modified its universal service rules to increase access to telecommunications services among low-income individuals on tribal lands. In particular, the Commission created a fourth tier of federal Lifeline support to substantially reduce the cost of basic telephone service for such individuals. In addition, the Commission revised its rules governing the Link-Up program to provide increased federal support to reduce the costs of initial connection charges and line extension charges. Finally, the Commission broadened the federal default qualification criteria to enable low-income individuals living on tribal lands to qualify for this enhanced support by certifying their participation in certain additional means-tested assistance programs. We make this clarification to ensure that those otherwise eligible to participate in the enhanced programs will have the full opportunity to do so.

20. We take this opportunity to clarify that a low-income individual living on tribal lands in a state that mandates state Lifeline support shall be eligible for Tiers One, Two, Three, and Four of federal Lifeline support if the consumer meets the eligibility criteria established by the state for such support. If the consumer does not meet the eligibility criteria established by the state for such support, or if the consumer lives in a state that does not mandate state Lifeline support, the consumer living on tribal lands may qualify for Tiers One, Two, and Four of federal Lifeline support if the consumer participates in at least one of the following nine programs: Bureau of Indian Affairs General Assistance, Tribally-Administered Temporary Assistance for Needy Families, Head Start (only those meeting its income qualifying standard), the National School Lunch Program’s free lunch program, Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance (Section 8) or the Low-Income Home Energy Assistance Program. In addition, such consumer may still be eligible to receive Tier Three of federal Lifeline support, as described in § 54.403(a)(3) of the Commission’s rules, if the ETC