

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Lifeline and Link Up Reform and
Modernization
WC Docket No. 11-42

ORDER

Adopted: February 2, 2016

Released: February 2, 2016

By the Chief, Wireline Competition Bureau:

1. In this Order, in response to various requests the Wireline Competition Bureau (Bureau) extends the transition period before the effective date of the Commission’s interpretation of the term “former reservations in Oklahoma,” as used within section 54.400(e) of the Commission’s rules,1 for 120 days, until June 8, 2016. In addition, in order to provide impacted parties additional certainty regarding the boundaries of the “former reservations in Oklahoma,” we release a digital shapefile in conjunction with this Order.2

2. Background. On June 18, 2015, the Commission adopted the 2015 Lifeline Reform Order to further modernize the Lifeline program.3 As part of its reform, the Commission for the first time formally interpreted “the former reservations in Oklahoma” within section 54.400(e) of the Commission’s rules – defining it by the geographic boundaries reflected in the Historical Map of Oklahoma 1870-1890 (Oklahoma Historical Map or Map),4 which the Commission found would “improv[e] administration of the Lifeline program and distribution of enhanced Tribal support.”5 In order to ensure an effective transition to the new map for all affected parties, and to ensure that the new map accurately embodied the “former reservations in Oklahoma,” the Commission provided a 180-day transition period from the effective date of the 2015 Lifeline Reform Order to implement the Commission’s interpretation of section 54.400(e).6 Based on the 180-day transition period, the Commission’s interpretation of “former reservations of Oklahoma” utilizing the Oklahoma Historical Map is scheduled to become effective on February 9, 2016.

3. The Order also required the Commission to “actively seek government-to-government consultation with Tribal Nations in Oklahoma on the efficacy and appropriateness of other maps and

1 See Letter from Bob Anthony, Chairman, Oklahoma Corporation Commission, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42, at 2 (filed Nov. 18, 2015) (OCC Ex Parte).

2 Federal Communications Commission, Enhanced Lifeline Support Maps, https://www.fcc.gov/general/oklahoma-enhanced-lifeline-support-maps (last visited Feb. 2, 2016).

3 Lifeline & Link Up Reform & Modernization, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (2015 Lifeline Reform Order or Order).

4 Id. at 7903, para. 257.

5 Id. at 7904, para. 260.

6 Id. at 7907, para. 265.

geospatial information assets.”<sup>7</sup> The Commission directed the Office of Native Affairs and Policy (ONAP) to coordinate the consultation “for the specific purposes of ensuring the accuracy and operational effectiveness of the boundaries as presented in the Oklahoma Historical Map.”<sup>8</sup> If the Bureau determines that “the Oklahoma Historical Map should be departed from in any way,” the Bureau is instructed to provide “a further revised interpretation of the appropriate boundaries of the former reservations in Oklahoma” to the Commission and “provide impacted parties an appropriate additional transition period.”<sup>9</sup>

4. Government-to-government consultation began soon after the adoption of the *2015 Lifeline Reform Order*. In-person consultations between ONAP, other Commission staff, and Oklahoma Tribal Nations occurred in Norman, Oklahoma and Tulsa, Oklahoma on August 5 and 7, 2015, respectively. At those consultations, Commission staff met with representatives from 10 Tribal nations and 2 Native organizations to discuss the impact of the proposed changes in the *2015 Lifeline Reform Order* and the implementation of the Oklahoma Historical Map. At the same time as the August consultations, and also as part of the consultation process, the Commission developed a digital version of the adopted Oklahoma Historical Map for Tribal representatives to review. Once the digital version of the Map was available, the Commission sent a letter to Oklahoma Tribal leaders explaining how to access the digital version and soliciting comments regarding the Map’s accuracy.<sup>10</sup> Soon thereafter, the Bureau and ONAP consulted with Tribal leaders, via teleconference, to further discuss the Map and the best ways for interested parties to participate in the consultation process. Finally, Commission staff most recently engaged in several in-person consultations with Tribal leaders on January 12 and 13, 2016 in Norman, Oklahoma and Catoosa, Oklahoma to discuss the use of the Oklahoma Historical Map as well as other issues impacting Lifeline and Link Up on Tribal lands.

5. While some Oklahoma Tribal leaders believe that the Oklahoma Historical Map accurately represents the “former reservations in Oklahoma,”<sup>11</sup> the Cherokee Nation has concerns regarding the accuracy of the Map’s boundaries. Specifically, the Cherokee Nation argues that the Cherokee Outlet<sup>12</sup> should remain as a “former reservation in Oklahoma.”<sup>13</sup> The Cherokee Nation states that the Cherokee Outlet was given to the Cherokee Nation in the 1835 Treaty of New Echota,<sup>14</sup> and that the Cherokee Nation retained possession of the Cherokee Outlet until a forced sale in 1889.<sup>15</sup>

6. On November 18, 2015, the OCC requested a 90-day extension of the effective date of the Commission’s interpretation of the “former reservations in Oklahoma” using the Oklahoma Historical

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<sup>7</sup> *Id.* at 7907, para. 265.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 7907, para. 266.

<sup>10</sup> Letter from Irene M. Flannery, Acting Chief, Office of Native Affairs and Policy, FCC Consumer and Governmental Affairs Bureau, and Ryan B. Palmer, Division Chief, Telecommunications Access Policy Division, FCC Wireline Competition Bureau, to Tribal Nations Leaders (Nov. 2, 2015) (WC Docket No. 11-42, filed Dec. 31, 2015) (Tribal Leader Letter).

<sup>11</sup> Letter from Kay Rhoads, Senior Chief, Sac and Fox Nation, to Irene Flannery, Acting Chief, Office of Native Affairs and Policy, FCC, WC Docket No. 11-42 (filed Dec. 31, 2015).

<sup>12</sup> *2015 Lifeline Reform Order* at 7906, para. 264 & n.531 (describing the Cherokee Outlet as “a 60 mile strip of land approximately 225 miles long on the northern edge of Oklahoma between the 96<sup>th</sup> and 100<sup>th</sup> meridians, into which, over time, certain Tribal Nations obtained their Tribal lands in Oklahoma.”).

<sup>13</sup> Cherokee Nation Comments, WC Docket No. 11-42, at 3-4 (filed Dec. 4, 2015).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

Map.<sup>16</sup> On December 21, 2015, Cox Communications, Inc. (Cox) filed comments supporting the OCC's request and stating that it would need to begin work by December 31, 2015, in order to comply with the February 9, 2016 deadline.<sup>17</sup> On January 15, 2016, Assist Wireless filed comments supporting the OCC's request for an extension, but separately requested an additional extension of the implementation deadline, for a period of either 120 or 180 days.<sup>18</sup> Each party expressed a desire for additional electronic mapping resources from the Commission in order to ensure proper implementation of the newly adopted interpretation of "former reservations in Oklahoma."<sup>19</sup>

7. *Discussion.* We find persuasive the concern that "the current effective date of February 9, 2016, will preclude ETCs from being able to provide consumers with adequate advance notice" of the change in areas eligible for enhanced Tribal support.<sup>20</sup> While the extensions requested ranged from 90 to 180 days, we conclude that a 120-day extension will give affected parties sufficient notice without causing undue delay. We therefore grant the request for an extension of the effective date of the Commission's interpretation of "former reservations in Oklahoma" within section 54.400(e) and extend the implementation date of the Map by 120 days, until June 8, 2016. Moreover, while the Bureau has already shared a digital file with Tribal Nations during the consultation process concerning the Map adopted by the *2015 Lifeline Reform Order*, we recognize that additional electronic mapping resources would be helpful to parties in their implementation in efforts. Accordingly, in conjunction with today's Order, the Bureau will release a shapefile showing the boundaries of the Oklahoma Historical Map as adopted in the *2015 Lifeline Reform Order*. Providing this map in advance of implementation will help to ensure an orderly and efficient transition process by allowing providers and consumers to determine geocoded locations within the "former reservations in Oklahoma" map adopted by the Commission.

8. We also believe that this brief extension of time is warranted in light of the results of the Tribal consultation that occurred pursuant to the *2015 Lifeline Reform Order*. The Commission, in adopting its interpretation of "former reservations in Oklahoma" emphasized the importance of consulting with the Tribal Nations to ensure the accuracy of the Oklahoma Historical Map. During the consultation process, Bureau and ONAP staff had the opportunity to learn more about the Cherokee Nation's concerns regarding the Cherokee Outlet's status as a "former reservation in Oklahoma." Extending the Map's implementation date gives the Commission an opportunity to appropriately evaluate and respond to the concerns that were raised during the consultation process.

9. With that consideration in mind, the Bureau will also release, at the same time as the shapefile described above, a second map that highlights the boundaries of the Cherokee Outlet that the Cherokee Nation contends should remain as Tribal lands for the Lifeline and Link Up programs.

10. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1., that the OCC's request for extension of time to implement section 54.400(e) is granted.

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<sup>16</sup> OCC *Ex Parte*.

<sup>17</sup> Letter from Jenny Prime, Director, Regulatory Affairs, Cox Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42, at 1-2 (filed Dec. 21, 2015) (Cox Letter).

<sup>18</sup> Letter from John Heitmann, Counsel, Assist Wireless, LLC and Easy Telephone Services Company dba Easy Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1 (filed Jan. 15, 2016) (Assist Wireless *Ex Parte*).

<sup>19</sup> *Id.*

<sup>20</sup> OCC *Ex Parte* at 2.

FEDERAL COMMUNICATIONS COMMISSION

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