

regions of the Nation, especially among Native American populations. We emphasize that the action we take here does not affect state sovereignty or impinge upon a state's ability to establish universal service programs aimed at increasing telephone subscribership within its borders.

10. Verizon opposes a waiver of § 54.400(e) until such time as the Commission determines how the term "near reservation" should be defined. As noted above, however, Smith Bagley no longer requests the Commission to designate the Eastern Navajo Agency as "near reservation" land. Because we do not grant this waiver on the basis of defining "near reservation," we reject Verizon's argument.

11. Further, we are not persuaded by Verizon's argument that SBI's Waiver Petition should be denied because states are in a better position to address pockets of low subscribership in non-reservation areas within their respective state. We agree that, in most instances, it is more appropriate for states to implement Lifeline and Link-Up programs designed for the specific needs of their state. Nothing in this order is intended to prevent state action in this regard. Indeed, the state of New Mexico is free to adopt measures to eradicate pockets of low subscribership within its borders. We emphasize that, at the present time, 67% of occupied housing units in the Eastern Navajo Agency do not have telephone service. As we stated in the *Twelfth Report and Order*, "the unavailability or unaffordability of telecommunications service on Tribal lands is at odds with our statutory goal of ensuring access to such services to "[c]onsumers in all regions of the Nation, including low-income consumers." Although the Eastern Navajo Agency is not entirely comprised of Tribal lands under the Commission's definition, the area is almost exclusively populated by Native Americans that suffer from the same conditions present on other federally-recognized Tribal lands. The availability of Tier 4 support program will provide immediate and vital benefits to low-income consumers in the Eastern Navajo Agency, consistent with the Commission's goal of enhancing telecommunications access among consumers on Tribal lands and its responsibility to ensure a standard of livability for members of Indian tribes.

III. Ordering Clause

12. Pursuant to authority contained in sections 1, 4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 254, and the authority under § 1.3 of the

Commission's rules, 47 CFR 1.3, the Waiver Petition filed by Smith Bagley, Inc., on November 15, 2004, is granted.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 05-62; FCC 05-31]

Suspension of the Acceptance of Applications for new 900 MHz Licenses Allotted to Business and Industrial Land Transportation Pool Licensees

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission affirmed the Wireless Telecommunications Bureau's (Bureau) decision to suspend the acceptance of applications for new 900 MHz business and industrial land transportation (B/ILT) licenses. The Commission takes this action to facilitate the auction of 900 MHz B/ILT white space.

DATES: The application suspension became effective on September 17, 2004.

FOR FURTHER INFORMATION CONTACT: Michael Connelly, Wireless Telecommunications Bureau, at (202) 418-0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Memorandum Opinion and Order (MO&O)*, FCC 05-31, in WT Docket No. 05-62, adopted February 10, 2005, and released February 16, 2005. The full text of this document is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY-A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Best Copy & Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 800-378-3160, facsimile 202-488-5563, or via e-mail at www.fcc@bcpiweb.com.

1. In this document, the Commission affirms the Bureau's decision to suspend the acceptance of applications for new 900 MHz business and industrial land transportation (B/ILT) licenses in a *Public Notice*, 19 FCC Rcd 18,277 (2004), until further notice. The Bureau noted that an exceptionally large number of applications for 900 MHz authorizations had been filed subsequent to the release of the *800*

MHz Rebanding Order, 69 FR 67823, November 22, 2004. The Bureau noted its concern that such additional filings might compromise the ability to accommodate displaced systems while the 800 MHz band is in the process of being reconfigured to abate unacceptable interference to Public Safety, Critical Infrastructure, and other "high site" 800 MHz systems. The Bureau provided that applications for the modification of existing facilities, assignment of licenses, or transfer of control of a licensee would continue to be accepted, subject to applicable rules regarding eligibility, loading, and other requirements. In addition, applicants were advised that pursuant to 47 CFR 1.925, they may have recourse via the Commission's waiver provisions to request an exception to the freeze.

2. Because of the fundamental changes the Commission is proposing in the service areas and channel blocks for future licensees in the 900 MHz B/ILT white space spectrum, the Commission finds it appropriate and necessary to continue to suspend new 900 MHz applications in the B/ILT category Pools. Being cognizant of the needs of existing licensees, and the fact that incumbents may continue to file modification applications, the Commission will consider requests for waiver of the application freeze for new authorizations (e.g., a licensee with a legitimate business need to expand coverage or add channels), thereby striking an appropriate balance of the need to keep the spectrum as unencumbered as possible with the needs of current licensees with business plans that need to be effectuated. Further, the Commission stresses that the waiver applicant bears the burden of demonstrating compliance with waiver standards, and notes that all 900 MHz band applications for new licenses filed prior to the freeze and are still pending, and will be processed in the normal course.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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