§ 1230.400 [Amended]

■ 2. Amend § 1230.400 by:
■ a. In paragraphs (a), (b), and (e), removing ''$19,246'' and adding in its place ''$19,639'' each place it appears.
■ b. In paragraphs (a), (b), and (e), removing ''$192,459'' and adding in its place ''$196,387'' each place it appears.

Appendix A to Part 1230 [Amended]

■ 3. Amend appendix A to part 1230 by:
■ a. Removing ''$19,246'' and adding in its place ''$19,639'' each place it appears.
■ b. Removing ''$192,459'' and adding in its place ''$196,387'' each place it appears.

PART 2554—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 4. The authority citation for part 2554 continues to read as follows:

Authority: Pub. L. 99–509, Secs. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812); 42 U.S.C. 12651c–12651d.

§ 2554.1 [Amended]

■ 5. Amend § 2554.1 by removing ''$10,957'' in paragraph (b) and adding in its place ''$11,181.''

Dated: January 5, 2018.

Tim Noelker,

General Counsel.

[FR Doc. 2018–00558 Filed 1–12–18; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 17–287, 11–42, 09–197; FCC 17–155]

Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) takes a fresh look at the Commission's Lifeline program and makes changes to the Lifeline rules to ensure that the program can more effectively and efficiently help close the digital divide for low-income consumers, while minimizing the contributions burden on ratepayers by tackling waste, fraud, and abuse.

DATES: Effective February 15, 2018, except for § 54.411, which will become effective March 19, 2018, and §§ 54.403(a)(3), 54.413, and 54.414 which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of those rules awaiting OMB approval.

FOR FURTHER INFORMATION CONTACT: Jodie Griffin, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order in WC Docket Nos. 17–287, 11–42, 09–197; FCC 17–155, adopted on November 16, 2017 and released on December 1, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1201/FCC-17-155A1.pdf.* The Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI) that was adopted concurrently with the Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order are published elsewhere in this issue of the **Federal Register**.

I. Introduction

1. This Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order takes a series of steps to address ongoing areas of concern in the Lifeline program to prevent waste, fraud, and abuse. Specifically, the Orders target enhanced Lifeline support to residents of rural areas on Tribal lands, establish mapping resources to identify rural Tribal lands, require independent certification of residency on rural Tribal lands, and direct enhanced support to facilities-based providers. In addition, this document makes changes to increase Lifeline benefit portability by eliminating the port freezes for voice and broadband internet access services. This document also clarifies that ''premium Wi-Fi'' and other similar networks of Wi-Fi-delivered broadband internet access service do not qualify as mobile broadband under the Lifeline program rules. Together, the Orders target enhanced Lifeline support for Tribal lands to support the deployment of modern communications networks, promote consumer choice within the program, and remove uncertainty and streamline our rules regarding the application of Lifeline support and eligibility for Lifeline reimbursement.

II. Fourth Report and Order

2. In this Fourth Report and Order, the Commission adopts several reforms to our Tribal Lifeline policies to increase the availability and affordability of high-quality communications services on Tribal lands. The Commission first targets enhanced Lifeline support on Tribal lands to residents of rural areas on Tribal lands. Since 2000, the Lifeline and Link Up programs have provided an enhanced subsidy of up to an additional $25 per month for service provided to qualified residents of Tribal lands, and a Link Up reduction of up to $100 for the cost to initiate supported service for qualifying residents of Tribal lands. This targeted support is in recognition of not only the low income levels but also the particularly poor connectivity on many Tribal lands. When it adopted the enhanced Lifeline Tribal subsidy, the Commission noted that 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,''' and explained that the added Lifeline and Link Up support would help lead to the deployment of more robust networks. While the Commission provided the enhanced support as a discount on services, that support was focused to most efficiently encourage ''investment and deployment'' in facilities, especially since all Lifeline providers in the program at the time were facilities-based. Because of an overly-broad definition of the geographic areas eligible for the enhanced subsidy, however, many areas where this enhanced subsidy is currently available are *not* lacking in either voice or broadband networks. To remedy this, the Commission refines its approach to target enhanced Lifeline support to residents of rural areas on Tribal lands. Focusing the enhanced subsidy for Tribal lands on rural areas is consistent with the enhanced subsidy's purpose and will ensure that the Fund is better directed toward the residents of Tribal lands who typically have the least choice for communications services.

3. The Commission believes that targeting enhanced support toward rural, facilities-based providers is consistent with the intent of the *2000 Tribal Order,* 65 FR 47883, August 4, 2000. While the *2000 Tribal Order* referenced reducing the costs of

telecommunications services, it specifically premised the support on the idea that enhanced support would incentivize providers to ''deploy telecommunications facilities in areas that previously may have been regarded as high risk and unprofitable.'' The Commission's creation of an enhanced Lifeline benefit in the *2000 Tribal Order* both reduced telecommunications costs *and* supported the deployment of networks because, at the time, all ETCs were facilities-based. (The Commission did not forbear from the Act's facilities-based requirements at all until 2005.) While the Commission must consider and address appropriate distinctions between support for facilities-based and non-facilities-based providers, the Commission does so in a way that continues to follow the principles identified in the *2000 Tribal Order* and Sections 214 and 254 of the Act. (*See* U.S.C. 214(e) and 254(b)(3).)

4. To identify rural areas on Tribal lands, the Commission adopts the definition of ''rural'' used in the E-rate program rules, which define ''urban'' as ''an urbanized area or urban cluster area with a population equal to or greater than 25,000.'' The Commission defines all other areas as ''rural.'' (47 CFR 54.505(b)(3).) In the *2015 Lifeline FNPRM,* 80 FR 42669, July 17, 2015, the Commission asked for comment on ''what level of density'' and at ''what level of geographic granularity'' it should define such rural areas. Shortly thereafter, the Commission began consultations with Tribal Nations regarding the Lifeline proposals that the Commission sought comment on in the *2015 Lifeline FNPRM.* After consideration of the comments, including comments by numerous Tribal stakeholders, and evaluation of the practicality of implementation, the Commission believes this definition will reasonably identify the Tribal areas the Commission intends to benefit from additional Lifeline funding. Accordingly, the Commission amends §§ 54.403(a)(3), 54.413, and 54.414 of the Lifeline program rules and directs the Universal Service Administrative Company (USAC) to develop a tool that will allow Lifeline service providers to determine whether a subscriber residing on Tribal lands resides in a rural area according to this definition. USAC shall update this tool pursuant to the same update schedule used for the E-rate rurality tool.

5. Selection of the E-rate program's ''rural'' definition is based on consideration of the record and matters of administrative efficiency. In the *2015 Lifeline FNPRM,* the Commission sought comment on focusing enhanced support to those Tribal lands with lower population densities. Specifically, the Commission sought comment on ''focus[ing] enhanced support only on areas of low population density that are likely to lack the facilities necessary to serve subscribers.'' The Commission also sought comment on the approach taken by the United States Department of Agriculture's Food Distribution Program on Indian Reservations (FDPIR), which excludes from eligibility residents of towns or cities in Oklahoma with populations of 10,000 or more, and sought comment on whether the Commission ''should implement a similar approach that excludes urban areas on Tribal lands from receiving enhanced Tribal support.'' Some commenters expressed concerns with a population density approach, but provided alternative density-based proposals ranging from limiting enhanced support to areas with fewer than 10,000 people and a county population density of less than 125 people per square mile, (Navajo Nation Telecommunications Regulatory Commission Comments at 12–13.) or ''only to Tribal lands that are located outside of a Metropolitan Statistical Area and that have less than 100 persons per square mile.'' (Smith Bagley Inc., Comments at 16) These proposals are more restrictive than the E-rate program's definition of rural. Other commenters opposed limiting the enhanced Tribal subsidy based on population density. The Commission disagrees with those commenters because their path would preserve the status quo of providing enhanced support to Lifeline subscribers on Tribal lands in densely populated areas where service providers already have sufficient incentive to deploy broadband facilities as in non-Tribal areas.

6. The Commission agrees that focusing enhanced support on less-dense areas will improve the Tribal support mechanism and better serve the goals of enhanced Tribal Lifeline support to incent deployment in areas that need it most and to increase the affordability of Lifeline services for Tribal lands residents. Based on the record, however, the Commission declines to adopt a population-density threshold to identify the Tribal areas that are eligible for enhanced Tribal support. Instead, the Commission takes an approach similar to the approach used by the FDPIR and use the E-rate program definition of ''rural'' to identify Tribal areas that are eligible for enhanced Lifeline support. This approach provides consistency between the E-rate and Lifeline programs. In addition, the Commission's definition of ''rural'' in the E-rate program serves the goals of enhanced Tribal Lifeline support by focusing enhanced support where communications services are more costly. As explained in the *2014 E-rate Order,* 80 FR 5961, February 4, 2015, the Commission adopted the current E-rate program definition of ''rural'' after numerous parties demonstrated that a narrower definition would result in an urban classification for numerous schools and libraries in small towns and remote areas where E-rate supported services are more costly. Using the E-rate definition of ''rural'' to identify Tribal areas that are eligible for enhanced support would ensure that the enhanced support is available for Tribal lands in these small towns and remote areas where supported services are more costly. Further, the E-rate definition of ''rural'' is less restrictive than the alternative population density-based methodologies proposed by Smith Bagley and the Navajo Nation Telecommunications Regulatory Commission.

7. The Commission also concludes that identifying less-dense areas by using the same definition of ''rural'' as the E-rate program (which was adopted in December 2014 and implemented for E-rate Funding Year 2015) will allow for more accurate, efficient administration by USAC. The Commission expects that consistency between the two USF programs will simplify the urban/rural determinations for carriers and eligible households. Specifically, standard program definitions of rurality would allow USAC to develop master data sources and simplify the development and updating of service provider tools for identifying addresses that qualify for enhanced support. The Commission therefore declines to adopt commenters' proposals to create an entirely new definition of rurality based directly on the number of persons per square mile in a particular geographic area. Those proposals would create unnecessary administrative difficulties and uncertainty for Lifeline providers, which the Commission believes would in turn create confusion and fewer choices for eligible low-income consumers.

8. The Commission also concludes that the provision of enhanced support in more densely populated Tribal lands, such as large cities (*e.g.,* Tulsa, Oklahoma or Reno, Nevada), is inconsistent with the Commission's primary purpose of the enhanced support. (Despite being ''The Biggest Little City in the World,'' Reno, NV has a population of 446,154 and, according to Form 477 data, 97.5% percent of the

population in its county have access to fixed broadband speeds of at least 25 Mbps/3 Mbps. Tulsa, OK has a population of 637,215 and 100% percent of the population in its county has access to fixed broadband speeds of at least 25 Mbps/3 Mbps. *See* Fixed Broadband Deployment Data, Deployment (last visited Oct. 24, 2017), *https://www.fcc.gov/maps/fixed-broadband-deployment-data/.*) When the Commission first adopted enhanced support on Tribal lands, it noted that ''unlike in urban areas where there may be a greater concentration of both residential and business customers, carriers may need additional incentives to serve Tribal lands that, due to their extreme geographic remoteness, are sparsely populated and have few businesses.'' That remains too true today. Approximately 98 percent of Americans in urban areas already have access to fixed broadband internet access service at speeds of 25 Mbps/3 Mbps, including residents of both Tulsa and Reno. (*See* Fixed Broadband Deployment Data, Deployment (last visited Oct. 24, 2017), *https://www.fcc.gov/maps/fixed-broadband-deployment-data/.*) Directing enhanced support to Tribal lands in urban areas is unlikely to materially increase the deployment of facilities in such areas and, therefore, risks wasting scarce program resources. In contrast, rural Americans, particularly those residing on Tribal lands, are much less likely to have access to high-speed internet access services, with Commission data showing that 63 percent of Americans living on rural, Tribal lands lack access to fixed broadband services at speeds of 25 Mbps/3 Mbps, making enhanced support more likely to incentivize deployment to serve low-income, rural residents on Tribal lands. (*See* Fixed Broadband Deployment Data, Deployment (last visited Oct. 24, 2017), *https://www.fcc.gov/maps/fixed-broadband-deployment-data/.*) This policy supports our view that enhanced Tribal support should be targeted to rural areas where the need is greatest.

9. The Commission next identifies mapping resources that can be used to locate ''Tribal lands'' under our rules. These maps can then be intersected with the maps delineating rural areas in order to create a map showing where enhanced Tribal lands Lifeline support is available. The Commission directs USAC to make these mapping resources available to providers.

10. Section 54.400(e) of our rules defines Tribal lands to include 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; Indian allotments; Hawaiian Home Lands held in trust for Native Hawaiians pursuant to the Hawaiian Homes Commission Act; and ''. . . any land designated as such by the Commission for purposes of this subpart.'' Before 2015, the Commission had not established any mapping resources to provide ready access to the boundaries of these Tribal lands.

11. The geographic areas described in § 54.400(e) of the Lifeline program rules correspond with the map of Hawaiian Home Lands maintained by the Department of Hawaiian Home Lands (DHHL), the U.S. Census Bureau's American Indians and Alaska Natives Map, the Oklahoma Historical Map 1870–1890, as amended by the Commission to include the Cherokee Outlet, and the Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act. (*See* 85 Stat. 688.)

12. To assist carriers and subscribers, the Commission identifies specific maps of these Tribal lands. In the *2015 Lifeline FNPRM,* the Commission interpreted the term ''former reservations in Oklahoma'' to establish boundaries for Tribal lands in the Lifeline program for residents in Oklahoma. The Commission and USAC later provided a map and shapefile for carriers to use in determining whether their customers reside on Tribal lands in Oklahoma. The Commission believes making this map available has successfully given clarity to providers and subscribers about the boundaries of Tribal lands in Oklahoma. The Commission thus believes providing additional maps and data, including in shapefile format, is appropriate for the other Tribal lands listed in § 54.400(e) of the Commission's rules. By providing carriers the information they need to quickly and accurately determine if an enrolling customer qualifies for enhanced support under the Lifeline rules, these maps and data will help prevent waste, fraud, and abuse in the program. These maps and data will also help Lifeline providers avoid situations in which the provider improperly requests enhanced Tribal support for customers who self-certified their Tribal residence but did not actually reside on Tribal lands.

13. The Hawaiian Homes Commission Act of 1921 (42 Stat. 108.) delineated the boundaries of ''Hawaiian Home Lands'' and tasked the DHHL with maintaining those boundaries, along with the responsibility of promulgating rules under that Act. As part of its responsibilities, the DHHL makes available a map and shapefile that precisely defines the geographic areas within the state of Hawaii considered ''Hawaiian Home Lands.'' Using this map will assist both Lifeline providers and consumers. Likewise, the Census Bureau maintains a map of every ''federally recognized Indian tribe's reservation, pueblo, or colony,'' called the American Indian and Alaska Native Areas Map. (*See* 47 CFR 54.400(e).) This map, and its accompanying shapefile, comports with the data sources the Commission uses regularly and will also provide clear guidance for Lifeline providers and consumers.

14. In light of these identified mapping resources, as well as the expected need for a reasonable transition period, the Commission directs USAC to prepare a map and the corresponding shapefiles to delineate the areas on which subscribers may receive enhanced Lifeline support for rural Tribal lands. USAC shall make this map and data available at least sixty (60) days before the effective date of this Order's rule changes for enhanced Lifeline support on Tribal lands. If, in the future, any of the sources identified in this section issue updated maps or shapefiles, the Commission directs USAC to make an updated map and the underlying data available within a reasonable time period but no later than ninety (90) days after the updated map or shapefile is issued.

15. The Commission also directs USAC to incorporate the map discussed above in its administration and implementation of the National Lifeline Accountability Database (NLAD) and National Eligibility Verifier (NV).

16. In the *2015 Lifeline FNPRM,* the Commission sought comment on requiring additional evidence of Tribal residency beyond the current self-certification requirement and placing the obligation to confirm Tribal residency with the Lifeline provider. To see that enhanced Lifeline support for rural Tribal lands is actually directed to subscribers who verifiably reside on Tribal lands, the Commission now establishes that only subscribers whose residential address or location is shown to fall within the boundary of the enhanced Tribal Lifeline map discussed above may receive enhanced support. Previously, the Commission had permitted providers to accept subscribers' self-certifications that they reside on Tribal lands according to the Commission's Lifeline rules, which made the program vulnerable to fraud and abuse and resulted in a $2 million settlement with one provider for claiming enhanced Tribal support for

subscribers who did not reside on Tribal lands. The Commission finds that the provision of maps delineating the boundaries of areas eligible for enhanced Tribal Lifeline support will give consumers and providers a more effective and simpler means of determining rural Tribal residency, thereby eliminating the need for reliance on self-certification. Accordingly, going forward, Lifeline providers will be required to independently verify and document subscribers' rural Tribal residency according to the map and data sources identified above. An ETC may seek enhanced reimbursement only for subscribers whose residential address is located within the bounds of that map.

17. In response to the *2015 Lifeline FNPRM,* some commenters urged the Commission to continue to permit consumers to self-certify their residence on Tribal lands. Commenters supporting this approach argue that there is no evidence of abuse of the self-certification mechanism, and eliminating self-certification would only increase subscriber costs. However, the Commission has recently found concrete evidence of abuse of the self-certification mechanism, resulting in improper payments that had to be reclaimed through an enforcement proceeding. (*See Blue Jay Wireless, LLC, Order,* 31 FCC Rcd 7603 (EB 2016).) In that instance, a Lifeline provider relied on subscriber self-certifications to improperly enroll several thousand customers as residents of Tribal lands, and continued to do so even after being informed that it was apparently over-claiming enhanced Tribal support. The Commission also finds that providing a map against which providers can verify eligibility for enhanced Tribal support provides greater certainty to providers and consumers alike, and thus eliminates questions about how to handle a consumer's self-certification if that consumer seems to reside outside Tribal lands.

18. The Commission concludes that a process by which providers determine enhanced eligibility by comparing the subscriber's residential address to data sources delineating rural Tribal lands is a more accurate method of verifying that a subscriber is entitled to enhanced Tribal reimbursement. If a subscriber does not reside within the bounds of the map that the Commission now provides, permitting that subscriber to receive reimbursement by simply certifying that she or he lives on Tribal lands leaves the program open to improper payments, waste, and possibly fraud and abuse.

19. The Commission is also sensitive to Tribal residences that have not been assigned conventional addresses and instead use descriptive addresses that are not recognized by the U.S. Postal Service. For those residences, a Lifeline subscriber may provide a descriptive address when enrolling in the program. A provider enrolling a subscriber with a descriptive residential address in a state where the National Verifier is not responsible for eligibility determinations must retain records documenting compliance with the program rules, including the rules the Commission amends in this Order limiting enhanced Lifeline support to rural Tribal lands and removing subscriber self-certification of Tribal lands residency. Accordingly, the Commission reminds providers that they must retain the documentation demonstrating how the provider determined that a subscriber with a descriptive address resides on rural Tribal lands to claim the enhanced Tribal Lifeline support. For example, as providers do today to verify the accuracy of consumers' self-certification, providers may note if a subscriber has a ZIP code that is entirely located in an area eligible for enhanced support, or may record the latitude and longitude of the subscriber's residence to compare against a map identifying areas eligible for enhanced support. The Commission directs USAC to develop a process for subscribers with descriptive addresses who reside on Tribal lands for use in the National Verifier, and to make public the steps in that process to better inform providers about acceptable methods of determining whether such subscribers are eligible for enhanced support.

20. In the *2015 Lifeline FNPRM,* the Commission sought comment on limiting enhanced Tribal Lifeline support to facilities-based service providers, just as the Commission in 2012 had limited enhanced Tribal Link Up support to facilities-based service providers that also received high-cost support. The Commission now concludes that such a limitation is appropriate. Accordingly, the Commission amends § 54.403(a)(3) of the Lifeline program rules to effectuate this change.

21. The Commission finds that last-mile facilities are critical to deploying, maintaining, and building voice- and broadband-capable networks on Tribal lands and Lifeline funds are more efficiently spent when supporting such networks. When the Lifeline discount is applied to a consumer's bill for a facilities-based service, those funds go directly toward the cost of providing that service, including provisioning, maintaining, and upgrading that provider's facilities. Since the introduction of enhanced Tribal and Link Up support in 2000, facilities-based providers have used that support to construct and upgrade networks on Tribal lands.

22. In contrast, Lifeline funds disbursed to non-facilities-based providers will still lower the cost of the consumer's service, but cannot directly support the provider's network because the provider does not have one. When the Commission eliminated Link Up support for non-facilities-based carriers on Tribal lands in 2012, it noted that at least one wireless reseller ''has received approximately a million in Link Up support for two months in 2011 on Tribal lands in [Oklahoma] without building infrastructure''—contravening the purposes of the enhanced support. And in the *2015 Lifeline FNPRM,* the Commission explained, ''Lifeline program data show that two-thirds of enhanced Tribal support goes to non-facilities based providers, and it is unclear whether the support is being used to deploy facilities in Tribal areas''—which contravened the Commission's express ''desire to use enhanced support to incent the deployment of facilities on Tribal lands.''

23. For the purposes of the Lifeline program, to enforce our revised § 54.403(a)(3), the Commission limits enhanced Tribal support to (1) fixed or mobile wireless facilities-based Lifeline service provided on Tribal lands with wireless network facilities covering all or a portion of the relevant Lifeline ETC's service area on Tribal lands; and (2) facilities-based fixed broadband or voice telephony service provided through the ETC's ownership or a long-term lease of last-mile wireline loop facilities capable of providing Lifeline service to all or a portion of the ETC's service area on Tribal lands. For purposes of enhanced Lifeline support, a fixed wireless provider must, consistent with FCC Form 477 instructions, provision or equip a broadband wireless channel to the end-user premises over licensed or unlicensed spectrum, while a mobile wireless provider must hold usage rights under a spectrum license or a long-term spectrum leasing arrangement along with wireless network facilities that that can be used to provide wireless voice and broadband services. (The Commission considers a long-term spectrum leasing arrangement as long-term *de facto* transfer spectrum leasing arrangements as defined and identified in 47 CFR 1.9003 and 1.9030, and long-

term spectrum manager leasing arrangements as defined and identified in 47 CFR 1.9003 and 1.9020(e).) For wireline providers, the Commission considers a ''long-term lease'' as an indefeasible right of use (IRU) of 10 years or more over the last-mile facility in question. The Commission has found that IRUs carry many of the same indicia of control as full ownership and therefore are considered fully owned facilities in other regulatory contexts.

24. The Commission concludes that, in the Lifeline program, an ETC's use of tariffed and un-tariffed special access services, resold services offered pursuant to sections 251(b) and (c), commercially available resold services, or unbundled network elements (UNEs) does not demonstrate that the service is ''facilities-based'' because such services do not reflect investment in broadband-capable networks in the service area by the ETC. Previously, the Commission found that competitors' use of incumbent local exchange carrier (LEC) special access services is not relevant to whether there is sufficient facilities-based competition in a market to justify forbearance from the incumbent LEC's obligation to provide UNEs. Additionally, UNEs themselves are only available in those cases where competitors are ''impaired'' without access—that is, UNEs are available to competitive carriers for those network components that a ''reasonably efficient'' competitor would not likely be able to construct on its own and without which market entry would likely be uneconomic.

25. If an ETC offers service using its own as well as others' facilities in its service area on rural Tribal lands, it may only receive enhanced support for the customers it serves using its own last-mile facilities. The Commission finds this definition is technology-neutral as between fixed and mobile services.

26. For many of the same reasons the Commission limited Link Up support to facilities-based carriers on Tribal lands, the Commission finds that limiting enhanced Lifeline support to facilities-based service provided to subscribers residing on Tribal lands will focus the enhanced support toward those providers directly investing in voice- and broadband-capable networks on rural Tribal lands. The Commission finds that this result comports with the Act's direction to the Commission to base its policies on the principle that ''low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas. . . .'' (47 U.S.C. 254(b)(3).) Directing enhanced Lifeline funds to facilities-based services makes those services more affordable and competitive for low-income consumers and also encourages investment that will ultimately provide more robust networks and higher quality service on rural Tribal lands. Doing so also ensures that the payments Lifeline providers receive from the Fund to serve rural Tribal lands will be reinvested in the ''provision, maintenance, and upgrading'' of facilities in those areas. (47 U.S.C. 254(e).) A number of Tribal Nations, Tribally-owned Lifeline providers, and other Lifeline providers agree with this decision and favor limiting enhanced support to providers with facilities, arguing that it will ensure that the enhanced subsidies reach the Tribal lands and residences that have never been connected and will support those network facilities already constructed.

27. The Commission disagrees with parties who argue that resellers' purchase of wholesale services from carriers that own facilities increases the incentive of those carriers to deploy and maintain their networks. Resellers offer little evidence beyond their own assertions that funneling Lifeline enhanced support funding through middle men will spur facilities-based carriers to invest in their rural, Tribal networks. Moreover, even if revenue from resellers marginally increases the ability and incentive of other providers to deploy or maintain facilities, the Commission concludes that this benefit is outweighed by our need to prudently manage Fund expenditures. Indeed, these resellers cannot explain how passing only a fraction of funds through to facilities-based carriers will mean more investment in rural Tribal areas than ensuring that facilities-based carriers receive 100 percent of the support. The Commission concludes that providing the enhanced support to Lifeline providers deploying, building, and maintaining critical last mile infrastructure is a more appropriate way to support the expansion of voice- and broadband-capable networks on Tribal lands. (The Commission reminds all ETCs that they may not discontinue Lifeline service to any community they serve without first relinquishing their ETC designation after the approval of the designation (state or federal) commission. *See* 47 U.S.C. 214(e)(4).)

28. To ensure compliance with this requirement and prevent potential waste, fraud, and abuse, the Commission directs USAC to take appropriate measures to verify that any ETC claiming enhanced rural Tribal support satisfies the facilities requirement outlined in this section prior to disbursing the enhanced support.

29. The Commission also clarifies that the ''facilities-based'' standard it describes bears only on whether the Lifeline provider is eligible to receive enhanced rural Tribal support. Whether a provider is ''facilities-based'' under the Act for purposes of seeking a Lifeline-only ETC designation and must obtain approval for a compliance plan to take advantage of blanket forbearance from the facilities requirement is unaffected by this standard and remains the same. (*See* 47 U.S.C. 214(e)(1)(A) (requiring ETCs to offer service ''either using its own facilities or a combination of its own facilities and resale of another carrier's services'').)

30. To ensure all impacted parties have sufficient time to make the necessary changes adopted in this Fourth Report and Order, the Commission provides a transition period. The changes made in this Fourth Report and Order for enhanced Lifeline support on Tribal lands shall be effective 90 days after the Wireline Competition Bureau announces that the Commission has received approval from the Office of Management and Budget (OMB) for the new information collection requirements in this Fourth Report and Order subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, or on August 1, 2018, whichever date occurs later. The Commission directs ETCs to notify, in writing, any customers who are currently receiving enhanced support who will no longer be eligible for enhanced support as a result of the changes in this Order. This notice must be sent no more than 30 days after the announcement of PRA approval. (Or, if the Commission has not received approval from the Office of Management and Budget (OMB) for the new information collection requirements in this Order subject to the Paperwork Reduction Act of 1995 (PRA), once OMB approval has been received.) This notice must inform any impacted customers that they will not receive the enhanced Lifeline discount beginning 90 days after the announcement of PRA approval or on August 1, 2018, whichever occurs later, and that customers residing on rural Tribal lands who are currently receiving service from a non-facilities-based provider have the option of switching their Lifeline benefit to a facilities-based provider to continue receiving enhanced rural Tribal support. The notice must also detail the ETC's offerings for Lifeline subscribers who are not eligible for enhanced support.

III. Order on Reconsideration

31. By this Order, the Commission eliminates the port freeze for voice and broadband internet access services found in § 54.411 of the Commission's rules. The Commission takes this action in response to significant concerns regarding the port freeze raised in Petitions for Reconsideration and other recent filings in the docket. In the *2016 Lifeline Order,* 81 FR 33026, May 24, 2016, the Commission codified port freezes lasting 12 months for broadband internet access service and 60 days for voice telephony service. After reconsideration of certain findings in the *2016 Lifeline Order,* the Commission now eliminates the Lifeline port freeze for voice and broadband internet access service.

32. The Commission established the extended port freeze for broadband internet access service ''[t]o facilitate market entry for Lifeline-supported BIAS [broadband internet access service] offerings, provide additional consumer benefits, and encourage competition'' by ''allowing broadband providers the security of a longer term relationship with subscribers. . . .'' Since the Commission adopted these requirements, multiple parties have filed Petitions for Reconsideration raising a variety of concerns regarding the port freeze rule. Petitioners argue that the port freeze requirements adversely impact consumers by restricting consumer choice and the record lacks evidence that demonstrates new entrants were or are having difficulty entering the Lifeline market. Petitioners also argue that the port freeze requirements were imposed without adequate notice, as required under the Administrative Procedure Act (APA); and raise concerns regarding the challenges ETCs will face from an administrative perspective in attempting to comply with the 12-month port freeze requirement. Because the Commission grants the petitions for reconsideration on other grounds below, it does not address the APA and administrative burden arguments here. Additionally, since implementation of the port freeze rule, other parties have raised concerns regarding the alleged improper invocation of consumer port freezes by certain Lifeline providers, which limits consumer choice, especially with regard to the 12-month port freeze for broadband service.

33. The Commission agrees with arguments raised by Petitioners and others that the disadvantages to consumers of the port freeze rule, in practice, outweigh the anticipated advantages; accordingly, the Commission eliminates the codified Lifeline benefit port freeze for voice and broadband internet access service. (*See* 47 CFR 54.411.) The Commission concludes that restricting the ability of Lifeline consumers to transfer their Lifeline benefit between service providers ultimately disadvantages Lifeline consumers. Such a restriction limits Lifeline consumers' ability to seek more competitive offerings and obtain those services that best meet their needs. In addition, restricting consumers' ability to transfer their Lifeline benefit will not promote competitive service offerings and, in fact, may diminish providers' motivation to provide higher quality service after enrolling a Lifeline-supported broadband subscriber, because the provider is assured a 12-month commitment from the subscriber. The Commission also agrees that the record evidence does not clearly support the view that a 12-month port freeze is necessary to ease market entry, and indeed can discourage new providers from entering the Lifeline market or a new geographical area because a significant portion of Lifeline subscribers would not be able to transfer their benefit to otherwise compelling new services offerings. Nor does the Commission believe that the 60-day port freeze for voice services adopted in the *2016 Lifeline Order,* while leading to these disadvantages, is effective in furthering its desired goals.

34. In general, parties that filed in support of a longer port freeze argued that carriers will be willing to make more significant investments as a result of longer term customer-carrier relationships and that a longer port freeze will discourage consumers from ''flipping.'' Indeed, several carriers decry ''flipping'' and explain how consumer churn makes it harder for carriers to recover their costs, including the costs of free phones. But flipping and consumer churn are not unique to the Lifeline marketplace, and companies have repeatedly turned to voluntary agreements (such as contracts) and alternative business models (such as prepaid plans) to address such concerns without the federal government artificially limiting consumer choice. In addition, the Commission notes that the primary intent of the Lifeline program is to provide a discount on service rather than devices. To the extent that providing discounted or free devices incentivizes consumers to engage in flipping, that outcome primarily results from a service provider's own marketing practices. The Commission also notes that supporters of the port freeze generally did not assert the 12-month port freeze was needed to address impediments to entering the market.

35. The Commission disagrees with those commenters who contend that removing the 12-month broadband internet access service port freeze will reduce provider participation in the Lifeline program and make it ''impossible to meet the Commission's minimum service standards and handset requirements at a cost that is affordable for low-income consumers.'' (Joint Lifeline ETC Respondents' Opposition at 7–8.) The Commission adopted minimum service standards after considering the record and concluding that minimum service standards are not unduly burdensome. Affordability was an important factor in adopting minimum service standards, and the standards the Commission adopted struck ''a balance between the demands of affordability and reasonable comparability.'' While the Commission considered concerns raised by some providers that they would not be able to offer services that meet the minimum standards, the Commission ultimately concluded that allowing the Lifeline benefit to be used on services that do not meet minimum service standards would lead to the type of ''second class'' service that the minimum service standards are meant to eliminate. Furthermore, prior to the *2016 Lifeline Order,* the shorter USAC-administered 60-day benefit port freeze for voice service did not drive providers out of the program. Indeed, the Commission is now acting in response to requests *from Lifeline providers* to eliminate or shorten the port freeze due to the administrative burdens associated with compliance.

36. The Commission codified the port freeze in part because it anticipated that consumers would benefit from greater choice and innovative service offerings as a result. In addition, the Commission envisioned benefits would accrue to consumers from a longer term relationship with their service providers. Since the implementation of the port freeze, the Commission has been presented with evidence, however, that it has not delivered the consumer benefits the Commission envisioned when it codified the requirement, but instead has incented certain providers to enroll consumers in offerings that provide little meaningful residential broadband access while locking in their Lifeline benefit with that provider for the following 12 months. These providers have used the port freeze to prevent customer churn, asserting that the service falls within the 12-month port freeze timeframe, even when

offering plans with only 10 MB of guaranteed mobile cellular data. As a result, although the port freeze rule has in some instances resulted in longer term relationships as anticipated, any benefits have come at the expense of consumers who find themselves trapped in low-quality plans for a full year. Parties such as Consumer Action and the National Consumers League have urged the Commission ''to stop the abuse of the so-called 'port freeze' rule, which is now being used to limit consumer choice and access to true broadband service and broadband-suitable devices.'' Because implementation of the port freeze has not, on balance, resulted in the anticipated benefits to Lifeline consumers and instead appears to have harmed consumers, the Commission now determines that this rule should be eliminated. The Commission also finds that retaining existing customers' port freezes would hinder consumer choice without leading or having led to improved offerings for consumers, and so the Commission declines to continue subscribers' existing port freezes.

37. Finally, the Commission clarifies the application of the Commission's rolling recertification rule in the absence of the port freeze rule and the port freeze exceptions. (47 CFR 54.410(f).) For purposes of rolling recertification, the subscriber's service initiation date is twelve months from the date of the most recent transfer or enrollment with the subscriber's current service provider, and recertification will be required every twelve months thereafter.

38. These changes to § 54.411 of the Commission's rules will become effective 60 days after publication of this Order in the **Federal Register**.

39. To ensure that qualifying low-income Americans receive quality, affordable Lifeline-supported broadband service, the Commission revises its rules concerning the application of Lifeline support. Section 54.403(b)(1) of the Commission's rules requires ETCs ''that charge federal End User Common Line charges or equivalent federal charges'' to apply federal Lifeline support to waive such charges for Lifeline subscribers. (47 CFR 54.403(b)(1).) The rule is silent, however, on the application of Lifeline support for subscribers receiving the Lifeline benefit for broadband internet access service, either in a bundle with qualifying voice telephony service or on a standalone basis, which does not have an End User Common Line charge. The Commission hereby clarifies that § 54.403(b)(1) of the Commission's rules only applies to subscribers receiving Lifeline-supported standalone voice telephony service or a bundled offering where the ETC is requesting reimbursement from the Lifeline program for the voice telephony component of the bundle.

40. USTelecom has filed a petition for reconsideration requesting, in relevant part, that the Commission eliminate § 54.403(b) of the Commission's rules to resolve the rule's ambiguity with regard to Lifeline-supported broadband internet access service. USTelecom argues that broadband internet access service does not have a federal End User Common Line charge or intrastate service, creating confusion as to how ETCs may comply with § 54.403(b) of the Commission's rules when the customer is receiving Lifeline-supported broadband internet access service. No parties filed in opposition to USTelecom's petition on this issue.

41. The Commission declines to eliminate the rule, as requested by USTelecom, so that ETCs seeking reimbursement for Lifeline voice telephony service, either on a standalone basis or in a bundle, will continue to apply the Lifeline discount to the EUCL. Instead the Commission now modifies § 54.403(b)(1) to clarify that this rule only applies to subscribers receiving standalone voice telephony service or a bundled offering where the ETC is requesting reimbursement from the Lifeline program for the voice telephony component of the bundle. By not addressing whether and how § 54.403(b)(1) applies to Lifeline-supported broadband internet access service, the rule causes unnecessary uncertainty for ETCs and may result in less affordable offerings for subscribers without any corresponding benefit for Lifeline subscribers. This revision of § 54.403(b)(1) also comports with the longstanding Commission goal of simplifying administration of the Lifeline program and reflecting current marketplace conditions. Accordingly, the Commission amends § 54.403(b)(1) to clarify that ETCs are only required to apply the Lifeline discount to the End User Common Line charge or equivalent federal charges where the ETC is receiving Lifeline support for that subscriber's voice telephony service.

42. The *2016 Lifeline Order* modified § 54.410(b)(2)(ii), (c)(2)(ii), and (e) to require the National Verifier, where it is responsible for determining subscriber eligibility or conducting recertification, to provide a copy of the subscriber's certification to the provider. (47 CFR 54.410(b)(2)(ii), (c)(2)(ii), (e).) The Commission now resolves an apparent conflict in our rules and alters § 54.410(b)(2)(ii), (c)(2)(ii), and (e) of the Commission's rules to eliminate the requirement that the National Verifier provide copies of certifications to ETCs where the National Verifier is responsible for eligibility determinations.

43. USTelecom filed a petition for reconsideration requesting, in relevant part, modifications to § 54.410(b)(2)(ii), (c)(2)(ii), and (e) of the Commission's rules to properly reflect the *2016 Lifeline Order's* intent with regard to the National Verifier. USTelecom argues that the text of the rule is in direct conflict with the *2016 Lifeline Order's* language and intent. The *2016 Lifeline Order* states: ''[t]he National Verifier will retain eligibility information collected as a result of the eligibility determination process'' and that ''Lifeline providers will not be required to retain eligibility documentation for subscribers who have been determined eligible by the National Verifier.'' However, § 54.410(b)(2)(ii), (c)(2)(ii), and (e) require Lifeline providers to retain eligibility documentation and certifications even when the National Verifier was responsible for the enrollment process. USTelecom adds that the cost and burden to providers of maintaining duplicative subscriber eligibility information from the National Verifier are unsupported by any ''sound policy basis.'' Further, USTelecom argues the rule may actually subvert program goals of ''. . . 'ensur[ing] that the National Verifier will incorporate robust privacy and data security best practices in its creation and operation of the National Verifier.' '' No parties filed in opposition to USTelecom's petition on this issue.

44. The Commission now modifies § 54.410(b)(2)(ii), (c)(2)(ii), and (e) to clarify that where the National Verifier is responsible for the consumer's initial eligibility determination or recertification, the National Verifier is not required to deliver copies of those certifications to the ETC. The Commission finds that this amendment to the rules is consistent with the goals of the National Verifier to ease burdens on Lifeline providers while improving privacy and security for consumers applying to participate in the program. This amendment also brings § 54.410 of the Commission's rules in line with the Commission's stated intent in the *2016 Lifeline Order* that Lifeline providers would not be required to retain eligibility documentation for eligibility determinations made by the National Verifier. Additionally, the Commission agrees with USTelecom that requiring Lifeline providers to maintain duplicative subscriber enrollment documentation presents unnecessary

risk to the privacy and security of subscriber information.

IV. Memorandum Opinion and Order

45. To fully realize the Commission's objectives of providing Lifeline-support for broadband services, the Commission provides clarity to ensure that service providers claiming Lifeline support for broadband service actually provide Lifeline customers with the level of broadband service intended in the *2016 Lifeline Order.* In February 2017, the Wireline Competition Bureau solicited public comment on a TracFone Wireless, Inc. (TracFone) request for clarification regarding §§ 54.408 and 54.411 of the Commission's rules. The Commission now removes any uncertainty in the record with respect to whether certain Wi-Fi technologies qualify for Lifeline reimbursement by clarifying that broadband internet access delivered via Wi-Fi is not eligible for reimbursement as mobile broadband under the Lifeline program rules, and the Commission reiterates that mobile broadband service eligible for Lifeline reimbursement must be provided on a network using at least 3G (Third Generation) mobile technologies. The Commission also clarifies that a provider does not directly serve a customer with fixed broadband service under the Lifeline rules if that customer cannot access the services at their residential address and, therefore, Wi-Fi offerings like the ''premium Wi-Fi'' service described in the record also do not qualify for Lifeline support as fixed broadband service offerings.

46. In its request for clarification, TracFone sought clarification regarding the types of service that meet the minimum service standards for Lifeline-supported mobile broadband and qualify for the twelve-month benefit port freeze. In response, several commenters expressed concerns that interpreting the minimum service standards for Lifeline-eligible mobile broadband to allow for Wi-Fi-delivered broadband as described in the request would inhibit the Commission's goal of supporting quality service to low-income consumers, while others supported an interpretation of the Commission's rules that would permit Lifeline support for ''premium Wi-Fi'' access offerings.

47. The Commission clarifies that ''premium Wi-Fi'' and other similar networks of Wi-Fi-delivered broadband internet access service do not qualify as mobile broadband under the Lifeline program rules. (*See* 47 CFR 54.400 *et seq.*) In the *2016 Lifeline Order,* the Commission focused on ''mobile network technologies'' and mobile service offerings over different generations of mobile technologies in adopting rules for Lifeline-eligible mobile broadband service. (*See* 47 CFR 54.408(b)(2)(i).) Against this backdrop, the Commission established minimum service standards, including minimum 3G (Third Generation mobile network) speeds, to qualify for Lifeline support. There is no evidence in the record that Wi-Fi-only technology, as deployed today, is a ''mobile technology'' or one of the ''generations'' of mobile technologies, as contemplated by the Commission in the *2016 Lifeline Order.* Further, nothing in the record demonstrates that Wi-Fi, including ''premium Wi-Fi,'' as deployed today, should be treated as an industry accepted generation of mobile technology.

48. The Commission also disagrees with Telrite that the use of the term ''3G'' in the § 54.408(b)(2)(i) of the Commission's rules was only intended as a proxy for a particular minimum network speed threshold and not a generation of mobile technology. In the *2016 Lifeline Order,* the Commission's discussion makes it clear that it was incorporating industry mobile technology generations, and that 3G was not just a proxy for a speed threshold. The Commission, for example, stated that ''[f]or the mobile broadband minimum service standard for speed, it relies on Form 477 data while also incorporating *industry mobile technology generation* (*i.e., 3G, 4G*).''

49. Unlike Wi-Fi, mobile networks provide ubiquitous mobility with large service area coverage. Wi-Fi access, however, can be a complement to a consumer's primary broadband service. Lifeline-eligible mobile broadband requires a mobile service provided through 3G mobile broadband technologies or subsequent and superior generations of mobile broadband technologies. Accordingly, the rules governing Lifeline support for a ''mobile broadband service'' contemplate not just a minimum of ''3G'' mobile network threshold speeds, but also a mobile network. (47 U.S.C. 153(33) (defining ''mobile service''); 47 CFR 20.3 (same).) As noted above, mobile networks, unlike current Wi-Fi networks, provide ubiquitous mobility within a large service area. Was the Commission to interpret the minimum service standard otherwise, an ETC could offer any fixed service with an arguably fast-enough speed, limit it to serve end users primarily using mobile devices, and claim that such a service was in fact ''mobile'' broadband because it offers speeds faster than ''3G.'' As a result, the section establishing Lifeline minimum service standards for fixed broadband service would have no meaningful application, because ETCs could simply offer the much lower data allowances permitted under the mobile broadband standards, supplement that amount with Wi-Fi-delivered data, and receive the same Lifeline support amount. (*See* 47 CFR 54.408(b)(1).)

50. The Commission also clarifies that a provider does not directly serve a customer with fixed broadband service under the Lifeline rules if that customer cannot access the service at their residential address. (*See* 47 CFR 54.407(a) (''Universal service support for providing Lifeline shall be provided directly to an eligible telecommunications carrier based on the number of actual qualifying low-income customers it serves directly as of the first day of the month.'')) The *2016 Lifeline Order* contemplates Lifeline-supported fixed broadband service as a residential service. A service that, for example, purports to offer Lifeline-supported fixed broadband service but only provides customers with access to hotspots that a qualifying low-income subscriber cannot access from their own residence undermines the Commission's requirement that carriers directly provide service to receive reimbursement. A review of the Wi-Fi service disputed in the record before us indicates that the iPass network used to provide the premium Wi-Fi service keeps customers connected in ''hotels, airports, and other business venues,'' trains, airplanes, and convention centers, and in many towns only includes hotspots at establishments with pre-existing free public Wi-Fi offerings, like McDonald's, Burger King, and Walmart. (*See* The iPass Global Wi-Fi Network, iPass (last visited Oct. 24, 2017), *https://www.ipass.com/mobile-network/. See also, e.g.,* iPass hotspot locations in Indianola, Iowa, and Forrest City, Arkansas, *https://hotspot-finder.ipass.com/united-states/indianola-iowa, https://hotspot-finder.ipass.com/united-states/forrest-city-arkansas* (last visited Oct. 24, 2017).) Some commenters indicated that these hot spot locations are ''likely to be of little use to most Lifeline customers'' because few of the hot spots are located in low-income residential areas, and the hot spot locations ''may not be common areas in which Lifeline customers would find themselves trying to utilize their Lifeline supported [broadband internet access service].'' (TracFone Wireless Reply at 7 & n. 12; Public Utility Division of Oklahoma Comments at 4.) TracFone also states that based on its sample testing for one Florida ZIP

Code, ''[l]ess than one percent of the 10,223 Lifeline households within that ZIP Code reside within areas covered by iPass hotspots'' and that nine of the twelve iPass hot spots within that ZIP Code ''are located inside business locations (typically, restaurants and hotels, and only available to patrons of those businesses).'' Accordingly, these types of premium Wi-Fi services would be functionally inaccessible to many Lifeline consumers and, thus, offering such services does not directly serve a Lifeline customer with fixed broadband service as required by § 54.407(a) of the Lifeline rules.

V. Procedural Matters

A. Paperwork Reduction Act

51. The Fourth Report and Order contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on the revised information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, the Commission previously sought specific comment on how it might further reduce the information collection burden on small business concerns with fewer than 25 employees.

52. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *2015 Lifeline FNPRM* in WC Docket Nos. 11–42, 09–197, 10–90. The Commission sought written public comment on the proposals in the *2015 Lifeline FNPRM,* including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

53. The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. The Lifeline program was implemented in 1985 in the wake of the 1984 divestiture of AT&T. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Since the *2012 Lifeline Reform Order,* 77 FR 12952, March 2, 2012, the Commission has acted to address waste, fraud and abuse in the Lifeline program and improved program administration and accountability. In this Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order (Order), the Commission takes steps to focus Lifeline program support to effectively and efficiently bridge the digital divide for low-income consumers while minimizing the contributions burden on ratepayers. The Commission resolves questions regarding enhanced Lifeline support for Tribal lands, which were raised in the *2015 Lifeline Further Notice of Proposed Rulemaking* but left unaddressed by the *2016 Lifeline Order.* The Commission resolves Petitions for Reconsideration to improve competition and efficiency in the Lifeline program. The Commission enables competition and empower Lifeline consumers by increasing their ability to switch their Lifeline benefit to a new provider. The Commission also clarifies how Lifeline providers should apply the Lifeline discount to service offerings that include Lifeline-supported broadband internet access service.

54. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

55. *Small Entities, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive small entity size standards that could be directly affected herein. As of 2016, according to the SBA, there were 28.8 million small businesses in the U.S., which represented 99.9 percent of all businesses in the United States. Additionally, a ''small organization is generally any not-for-profit enterprise which is independently owned and operated and not dominant in its field.'' Nationwide, as of 2014, there were approximately 2,131,200 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand''. U.S. Census Bureau data published in 2012 indicates that there were 89,476 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

56. A number of our rule changes will result in additional reporting, recordkeeping, or compliance requirements for small entities. For all of those rule changes, the Commission has determined that the benefit the rule change will bring for the Lifeline program outweighs the burden of the increased requirement/s. Other rule changes decrease reporting, recordkeeping, or compliance requirements for small entities. The Commission has noted the applicable rule changes below impacting small entities.

57. *Compliance burdens.* All of the rules the Commission implements impose some compliance burdens on small entities by requiring them to become familiar with the new rules to comply with them. For several of the new rules the burden of becoming familiar with the new rule in order to comply with it is the only additional burden the rule imposes.

58. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

59. This rulemaking could impose minimal additional burdens on small entities. In this Order, the Commission

modifies certain Lifeline rules to target funding to areas where it is most needed. In developing these rules, the Commission worked to ensure the burdens associated with implementing these rules would be minimized for all service providers, including small entities. In taking this action, the Commission considered potential impacts on service providers, including small entities. The Commission considered alternatives to the rulemaking changes that increase projected reporting, recordkeeping and other compliance requirements for small entities, including alternatives on how to define ''rural'' for purposes of describing rural Tribal lands and how the Commission and USAC could provide mapping resources to help small entities identify with certainty areas that are eligible for enhanced support. In developing our rules related to Tribal benefits, the Commission carefully crafted the requirements to be easier on all service providers and determined that a specific carve-out for small businesses was not necessary.

60. No commenters specifically offered alternatives to the changes made in this Order. Further, given the narrow and targeted scope of the changes being made no alternative readily presents itself to limit the burdens on small business or organizations. The identified increase in burden is minimal and outweighed by the advantages in combating waste, fraud, and abuse in the program.

VII. Ordering Clauses

61. *Accordingly, it is ordered*, that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, and 403, and § 1.2 of the Commission's rules, 47 CFR 1.2, this Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order *is adopted* effective thirty (30) days after the publication of this Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order, in the **Federal Register**, except to the extent provided herein and expressly addressed below.

62. *It is further ordered,* that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, and 403, part 54 of the Commission's rules, 47 CFR part 54, is *amended* as described in the following Final Rules, and such rule amendments to §§ 54.403(b) and 54.410 of the Commission's rules shall be effective thirty (30) days after the publication of this Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order in the **Federal Register**.

63. *It is further ordered,* that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, and 403, that the removal and reservation of § 54.411 of the Commission's rules shall be effective sixty (60) days after the publication of this Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order in the **Federal Register**.

64. *It is further ordered,* that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, and 403, part 54 of the Commission's rules, 47 CFR part 54, is *amended* as described in the following Final Rules, and such rule amendments to §§ 54.403(a)(3), 54.413, and 54.414 of the Commission's rules are subject to the PRA and shall be effective ninety (90) days after announcement in the **Federal Register** of OMB approval of the subject information collection requirements or on August 1, 2018, whichever occurs later.

65. *It is further ordered that,* pursuant to the authority contained in sections 1–5 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155 and 254, and § 1.429 of the Commission's rules, 47 CFR 1.429, the Petition for Reconsideration filed by United States Telecom Association on June 23, 2016 and the Petition for Reconsideration/Clarification of NTCA—The Rural Broadband Association and WTA—Advocates for Rural Broadband *are granted* to the extent described above.

66. *It is further ordered* that the Commission *shall send* a copy of this Fourth Report and Order, Order on Reconsideration, and Memorandum Opinion and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unles otherwise noted.

■ 2. Amend § 54.403 by revising paragraphs (a)(3) and (b)(1) to read as follows:

§ 54.403 Lifeline support amount.

* * * * *

(a) * * *

(3) *Tribal lands support amount.* Additional federal Lifeline support of up to $25 per month will be made available to a eligible telecommunications carrier providing facilities-based Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400(e), if the subscriber's residential location is rural, as defined in § 54.505(b)(3)(i) and (ii), and the eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tribal lands support amount to the qualifying eligible resident of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) *Application of Lifeline discount amount.* (1) Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges must apply federal Lifeline support to waive the federal End User Common Line charges for Lifeline subscribers if the carrier is seeking Lifeline reimbursement for eligible voice telephony service provided to those subscribers. Such carriers must apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers must apply the federal Lifeline support amount, plus any additional support amount, to reduce the cost of any generally available residential service plan or package offered by such carriers that provides at least one supported service as described in § 54.101(a), and charge

Lifeline subscribers the resulting amount.

* * * * *

■ 3. Amend § 54.410 by revising paragraphs (b)(2)(ii), (c)(2)(ii), and (e) to read as follows:

§ 54.410 Subscriber eligibility determination and certification.

* * * * *

(b) * * *

(2) * * *

(ii) If a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, a copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

* * * * *

(c) * * *

(2) * * *

(ii) If a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, a copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

* * * * *

(e) State Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline must provide each eligible telecommunications carrier with a copy of each of the certification forms collected by the state Lifeline administrator or other state agency for that carrier's subscribers.

* * * * *

§ 54.411 [Removed and Reserved]

■ 4. Remove and reserve § 54.411.

■ 5. Revise § 54.413 to read as follows:

§ 54.413 Link Up for rural Tribal lands.

(a) For purposes of this subpart, the term ''Tribal Link Up'' means an assistance program for eligible residents of Tribal lands, if the subscriber's location is rural, as defined in § 54.505(b)(3)(i) and (ii), seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on rural Tribal lands, pursuant to subpart D of this part, that provides:

(1) A 100 percent reduction, up to $100, of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber's principal place of residence imposed by an eligible telecommunications carrier that is also receiving high-cost support on rural Tribal lands, pursuant to subpart D of this part. For purposes of this subpart, a ''customary charge for commencing telecommunications service'' is the ordinary charge an eligible telecommunications carrier imposes and collects from all subscribers to initiate service with that eligible telecommunications carrier. A charge imposed only on qualifying low-income consumers to initiate service is not a customary charge for commencing telecommunications service. Activation charges routinely waived, reduced, or eliminated with the purchase of additional products, services, or minutes are not customary charges eligible for universal service support; and

(2) A deferred schedule of payments of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber's principal place of residence imposed by an eligible telecommunications carrier that is also receiving high-cost support on rural Tribal lands, pursuant to subpart D of this part, for which the eligible resident of rural Tribal lands does not pay interest. The interest charges not assessed to the eligible resident of rural Tribal lands shall be for a customary charge for connecting the telecommunications service of up to $200 and such interest charges shall be deferred for a period not to exceed one year.

(b) An eligible resident of rural Tribal lands may receive the benefit of the Tribal Link Up program for a second or subsequent time only for otherwise qualifying commencement of telecommunications service at a principal place of residence with an address different from the address for which Tribal Link Up assistance was provided previously.

■ 5. Amend § 54.414 by revising paragraph (b) to read as follows:

§ 54.414 Reimbursement for Tribal Link Up.

* * * * *

(b) In order to receive universal support reimbursement for providing Tribal Link Up, eligible telecommunications carriers must use the maps made available by the Administrator to determine an eligible resident of rural Tribal lands' initial eligibility for Tribal Link Up. Eligible telecommunications carriers must obtain a certification form from each eligible resident of Tribal lands that complies with § 54.410 prior to enrolling him or her in Tribal Link Up.

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[FR Doc. 2018–00152 Filed 1–12–18; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2017–0081; 4500090024]

RIN 1018–BC54

Endangered and Threatened Wildlife and Plants; Taxonomical Update for Orangutan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Direct final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the revised taxonomy of the orangutan under the Endangered Species Act of 1973, as amended (Act). When we listed the orangutan in 1970, the listed entity included all orangutans in the genus *Pongo.* At that time, the scientific community recognized one species (*Pongo pygmaeus*) in the genus *Pongo,* which consisted of two subspecies (*P. pygmaeus pygmaeus* and *P. p. abelii*). However, the orangutan has recently been reclassified as belonging to two distinct species: *P. pygmaeus* and *P. abelii.* Therefore, we are revising the List of Endangered and Threatened Wildlife to reflect the current scientifically accepted taxonomy and nomenclature of the orangutan. Because all orangutans in the genus *Pongo* are already included under the original listing of *Pongo pygmaeus* as endangered under the Act, the newly recognized taxonomic species is considered part of the original listed entity, and this technical correction does not alter the regulatory protections afforded to the orangutan. For the same reason, if other *Pongo* species emerge due to future taxonomic revisions to further subdivide the genus *Pongo,* they would be encompassed by the original listing and this technical correction.

DATES: This rule is effective April 16, 2018 without further action, unless we receive significant scientific information that provides strong justifications as to why this rule should not be adopted or why it should be changed on or before February 15, 2018. If we receive significant scientific information regarding this taxonomic change for the orangutan, we will publish a timely withdrawal of this rule in the **Federal Register**.

ADDRESSES: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box,