

**§ 180.434 [Amended]**

12. Section 180.434 is amended by removing the entries for poultry, fat; poultry, kidney; poultry, liver; poultry, meat byproducts, except kidney and liver; poultry, meat; and egg from the table in paragraph (a).

[FR Doc. 03-17730 Filed 7-15-03; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**
**47 CFR Part 54**

[CC Docket No. 96-45; FCC 03-115]

**Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document is being issued in order to ensure that enhanced Lifeline and Link-Up support is targeted to the most underserved segments of our Nation. The Commission sought comment on the same questions present herein in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*. This Further Notice of Proposed Rulemaking seeks to bolster the record on how to define the geographic areas that are adjacent to reservations or are otherwise part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link-Up support to the most underserved segments of the Nation.

**DATES:** Comments are due on or before August 15, 2003. Reply comments are due on or before September 2, 2003. Written comments by the public on the proposed information collections are due on or before September 2, 2003. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before September 15, 2003.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or

via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov) and to Edward C. Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to [vhuth@omb.eop.gov](mailto:vhuth@omb.eop.gov). See **SUPPLEMENTARY INFORMATION** for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:**

Shannon Lipp, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in CC Docket No. 96-45, FCC 03-115, released on May 21, 2003. This Further Notice of Proposed Rulemaking was also released with a companion Order on Reconsideration and Report and Order (Order). 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.

**I. Further Notice of Proposed Rulemaking**

1. In this Further Notice of Proposed Rulemaking (FNPRM), we seek further comment on potential modifications to our rules regarding availability of enhanced Federal Lifeline and Link-Up assistance to qualifying low-income consumers living "near reservations."

*A. Discussion*

2. We seek further comment on the proposals in the record to identify geographic areas that are adjacent to the reservations, consistent with the goal of targeting enhanced Lifeline and Link-Up to the most underserved areas of the Nation. As set forth in the *Tribal Stay and Order*, 65 FR 58721, October 2, 2000, the term "near reservation," as defined by BIA at the time of adoption of the *Twelfth Report and Order and Further Notice of Proposed Rulemaking*, 65 FR 47941, August 4, 2000, and codified in our rules in this Order, includes wide geographic areas that do not possess the same characteristics that warrant the targeting of support to reservations, such as geographic isolation, high rates of poverty, and low telephone subscribership. As several commenters note, this definition of "near reservation" incorporates many highly populated, urban areas across the Nation, including major cities such as Phoenix, Sacramento, Seattle, and Las Vegas. As set forth in the *Tribal Stay and Order*, we continue to find that using this definition of "near reservation" will not target enhanced Lifeline and Link-Up appropriately.

3. We issue this FNPRM to obtain more detailed information on proposals contained in the current record, as well as additional proposals that may be more consistent with our goal of targeting enhanced Lifeline and Link-Up support to only the most underserved areas of our Nation and that may impose fewer administrative burdens. For instance, USCC recommends excluding major metropolitan areas from the enhanced low-income programs by excluding Consolidated Metropolitan Statistical Areas (CMSAs) from receiving enhanced low-income support. Washington UTC suggests that enhanced Lifeline and Link-Up support be provided in the entirety of any telephone exchange that contains all or any portion of a tribal reservation. In addition, Smith Bagley, Inc. (SBI) proposes that a person qualify for enhanced Lifeline and Link-Up benefits if he or she resides within 50 miles of a recognized Native American reservation and in a county that has a population density of no more than 50 persons per square mile.

4. We seek comment on data that addresses whether these proposed target areas share the same characteristics of reservation areas. For example, SBI fails to explain why it recommends choosing a population density of 50 persons per square mile. We seek record support regarding these issues. Moreover, the proposals of USCC, Washington UTC, and SBI may not adequately ensure that the enhanced Lifeline and Link-Up support mechanisms are targeted only to those areas that share the same attributes as reservations. For example, we believe that these proposals may not exclude large cities from the definition of "near reservation." We seek comment on how these proposals may be tailored to exclude such large cities.

5. We seek comment on how to minimize any administrative burdens raised by these proposals. For example, SBI proposes that the Commission produce and distribute maps outlining all areas that are within a 50 mile radius of a reservation in which the county contains less than 50 persons per square mile. We believe that the Commission may not be the appropriate entity to undertake such tasks because it has no particular expertise with regard to such mapmaking. In addition, we are not aware of any current map that contains all reservations as defined by the Commission. We seek comment on alternative sources for such maps. We seek comment on the feasibility of having prospective ETCs bear the cost and burden of producing their own maps showing the areas in which they request ETC designation.

6. We also seek comment on additional proposals for defining the geographic areas that are near reservations to ensure that enhanced Lifeline and Link Up support is targeted to qualifying low-income consumers living in areas adjacent to, or near, reservations that share many of the same characteristics as the reservations. We request that commenters provide detailed information to assist us in determining how enhanced Lifeline and Link Up support should be targeted. Such information should include the population of the geographical area, the number of income-eligible subscribers, the distance of each area from the nearest reservation, whether there is any legal recognition of that area by the BIA, whether the area includes or is part of a Metropolitan Statistical Area (MSA), and the level of telephone subscribership in the area. Wireline Competition Bureau staff have estimated, through analysis of recent Census data of a sampling of zip codes in near reservation areas, that the level of telephone subscribership in Indian households is lower than the level of telephone subscribership for all households. We ask commenters to provide their own data comparing the level of telephone subscribership in Indian households in near reservation areas with the level of telephone subscribership in all households in near reservation areas, or comment on the Bureau's preliminary estimates. Bureau staff have also estimated that a greater percentage of Indian households in near reservation areas have incomes under \$25,000, compared to all households in near reservation areas. We ask commenters to provide their own data comparing the percentage of low-income Indian households in near reservation areas with the percentage of all low-income households in near reservation areas, or comment on the Bureau's preliminary estimates. We note that the Bureau's most recent penetration report indicates that there is a correlation between low levels of household income and low levels of telephone subscribership.

7. Finally, we seek comment on the effect of any proposed "near reservation" definitions on the ETC designation process. As explained, we conclude that, pending resolution of the "near reservation" definition, petitions for ETC designation relating to near reservation areas will not be considered as petitions relating to tribal lands. Petitioners seeking ETC designation in such areas must follow the procedures outlined in the *Twelfth Report and Order and Further Notice of Proposed*

*Rulemaking* for non-tribal lands prior to submitting a request for designation to the Commission under section 214(e)(6). The Commission reached this conclusion because it believed that near reservation areas do not invoke the same jurisdictional concerns and principles of tribal sovereignty that are associated with areas within the boundaries of reservations. Accordingly, we request that any proposed definitions of "near reservation" also include a discussion of the impact of such definition on the ETC designation process.

## II. Procedural Matters

### A. Paperwork Reduction Act

8. This Further Notice of Proposed Rulemaking contains a proposed information collection. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Further Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due on or before September 2, 2003. OMB comments are due on or before September 15, 2003. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

### B. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980, as amended, (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic effect on small entities by the policies and rules proposed in the FNPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the FNPRM provided in the Comment Filing Procedures section. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the FNPRM and IRFA (or summaries

thereof) will be published in the **Federal Register**.

### 1. Need for, and Objectives of, the Proposed Rules

10. This FNPRM is being issued in order to ensure that enhanced Lifeline and Link-Up support is targeted to the most underserved segments of our Nation. The Commission sought comment on the same questions present herein in the *Tribal Stay Order and Further Notice of Proposed Rulemaking*. This FNPRM seeks to bolster the record on how to define the geographic areas that are adjacent to reservations or are otherwise part of the reservation's community of interest, in a manner that is consistent with our goal of targeting enhanced Lifeline and Link-Up support to the most underserved segments of the Nation. This action is taken pursuant to the Act's mandate that "[c]onsumers in all regions of the Nation \* \* \* have access to telecommunications and information services. \* \* \*"

### 2. Legal Basis

11. The legal basis for any action that may be taken pursuant to the FNPRM is contained in sections 1-4, 201-205 and 254 of the Communications Act of 1934, as amended.

### 3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

12. In the IRFA at paragraphs 11-31 of *Tribal Stay Order and Further Notice of Proposed Rulemaking*, we described and estimated the number of small entities that would be affected by the determination to stay application of the enhanced low-income programs to "near reservation" areas and to consider alternative definitions. The proposals discussed in this FNPRM apply to the same entities. We therefore incorporate by reference paragraphs 11-31 of the *Tribal Stay Order and Further Notice of Proposed Rulemaking*.

### 4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

13. The measures under consideration in this FNPRM may, if adopted, result in additional reporting or other compliance requirements. A modified definition of "near reservation" may impact reporting requirements for carriers eligible to receive enhanced Lifeline and Link-Up. For example, such carriers may be required to compile maps or derive other means to determine whether qualifying low-income customers fall within any designated geographic areas. In addition, if the current stay is lifted and

an alternative definition of "near reservation" is adopted, eligible carriers may be required to submit data regarding an increased number of qualifying low-income consumers. Such increased reporting requirements would be offset by increased opportunities to receive universal service support.

#### 5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to describe any significant 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 or reporting requirements under the rule for 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 small entities.

15. In the FNPRM, we outline the various alternative proposals that have been suggested to the Commission in response to the *Tribal Stay Order and Further Notice of Proposed Rulemaking*. We seek comment on the cost and benefits of each of these alternative proposals, including the potential administrative burdens involved in implementing such proposals on eligible carriers. The Commission's rules relating to the receipt of enhanced Lifeline and Link-Up support apply equally to all eligible carriers providing service to qualifying low-income consumers. The proposals presented herein are consistent with these standards.

#### 6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

16. None.

#### C. Filing of Comments and Reply Comments

17. We invite comment on the issues and questions set forth in the FNPRM. Pursuant to § 1.415 and § 1.419 of the Commission's rules, interested parties may file comments on or before August 15, 2003, and reply comments on or

before September 2, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

18. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street,

SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties also should send four (4) paper copies of their filings to Sheryl Todd, Federal Communications Commission, 445 12th Street, Rm. 5-A520, SW., Washington, DC 20554.

19. Written comments by the public on the proposed information collections are due on or before September 2, 2003. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before September 15, 2003. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov) and to Edward Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [edward.springer@omb.eop.gov](mailto:edward.springer@omb.eop.gov).

20. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (tty).

### III. Ordering Clauses

21. Accordingly, it is ordered that, pursuant to the authority contained in sections 1-4, 214(e), and 254 of the Communications Act of 1934, as amended, and 254, and § 1.429 of the Commission's rules, this Further Notice of Proposed Rulemaking is adopted.

22. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Ruth A. Dancey,**

*Special Assistant to the Secretary.*

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