

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **Century-Old Oklahoma Tribal Map Is Flash Point in Digital Debate.**

Pioneer George Rainey bounced into Oklahoma aboard a Santa Fe train in 1889 seeking his fortune. He landed a job as a county clerk and published a map of the state, including the vast tracts that once belonged to the Comanche, Cherokee and other tribes.

Today, Rainey's "Historical Map of Oklahoma 1870-1890" is central to a most modern debate: how much the federal government should spend to help people stay connected as the Internet emerges as the central communications service of the 21st Century.

The U.S. Federal Communications Commission has adopted Rainey's 1917 map as the reference for determining how big a subsidy poor Oklahoma residents get for telephone and Internet service. It includes wide areas that were once Indian reservations, where residents get \$34.25 a month — compared with \$9.25 elsewhere.

The subsidies are part of a nationwide system. But relying upon the long-dead cartographer's handiwork in Oklahoma is being cited by critics as evidence of what they say is the program's mismanagement and waste. It has become a rallying cry for Republicans in Congress who want to contain spending for what they derisively call the Obamaphone.

### **Internet Expansion**

"There are problems plaguing this system," Representative Greg Walden, an Oregon Republican, said last week as lawmakers debated a Republican bill to limit spending on the program. "There's been cases of waste, fraud — a lot of fraud."

The Lifeline program has been around in some form since 1985, during the administration of Republican President Ronald Reagan. Last year it spent about \$1.5 billion to help people pay for service over mobile phones and land lines. In March, the FCC expanded it by making broadband Internet eligible for subsidies.

That could drive up demand and costs for the program, which is paid for through a telecommunications tax on telephone bills. The FCC says switching from a 1951 map now in use in Oklahoma — where about two-thirds of all enhanced tribal subsidies are paid — will save money by cutting the capital Oklahoma City from areas regarded as former reservations. But it leaves much of the rest of the state still eligible, including Tulsa, the state's No. 2 city with about 400,000 people.

### **Tribal Subsidies**

The enhanced subsidy is meant to provide an incentive for companies to provide service in neglected tribal areas.

The map grants standing for an expanded subsidy "even if you're not a tribal member, and if you're living in a major urban area," said Ajit Pai, a Republican FCC commissioner who has criticized

Lifeline.

"If we're going to make this program fiscally responsible, and direct funding to people that actually need help, people in Tulsa don't need that subsidy," Pai said. "We should have reclaimed some of that subsidy and redirected it to people in need."

Democrats oppose a spending cap, saying it could arbitrarily bar poor people from a program that makes it possible for schoolchildren to complete homework, and grown-ups to reach jobs and doctors.

### **Poverty Program**

"This is truly the lifeline for people that live in poverty," Representative Anna Eshoo, a California Democrat, said during debate April 19 before a House subcommittee that passed a cap, sending the bill on to full committee. "Why are we hurting these people?"

On this issue, Democrats can count on the backing of the wireless industry. CTIA, a trade group representing companies including AT&T Inc. and Verizon Communications Inc. that offer Lifeline service, told Congress a cap "would be counterproductive" in part because it would "exclude an undetermined number of the eligible low-income consumers."

The program offers the monthly support for people with incomes at or below 135 percent of federal poverty guidelines.

Lifeline swelled to as much as \$2.2 billion for 17.2 million beneficiaries in 2012, up from \$819 million for 6.7 million accounts in 2008. The rise happened after the FCC said wireless companies could offer service paid by Lifeline without owning a network, and scores of providers that lease wireless capacity rushed to join the program.

### **FCC Reforms**

In response, the FCC tightened rules and claims credit for the drop of about 30 percent in spending from 2012 levels. The agency decided recipients need to provide documented proof of eligibility such as participation in U.S. welfare programs like food stamps, and it set up a database of participants that phone companies are to check to ensure there's no more than one subsidized device per household.

Regulators haven't said how much spending may rise as the program expands to include Internet service. If spending approaches \$2.25 billion the FCC is to re-assess its actions.

The program will offer help to Americans who "live on the wrong side of the digital divide," FCC Chairman Tom Wheeler and Commissioner Mignon Clyburn said in a March 8 blog post. "What we're really talking about is people - unemployed workers who miss out on jobs that are only listed online, students who go to fast-food restaurants to use the Wi-Fi hotspots to do homework."

### **Fraud Cases**

Republicans aren't mollified, and they point to recent fines imposed on companies for program abuses — such as claiming a second subsidy for a customer by falsely listing them at the address of a homeless shelter.

The FCC has proposed roughly \$155 million in fines against 16 phone companies accused of bilking Lifeline since early 2013, according to a list maintained by the Universal Service Administrative

Company, the non-profit that administers the program in partnership with states and the FCC.

In Oklahoma, the broad availability of a higher subsidy has attracted an unusual number of companies. The state had 74 Lifeline providers at the end of last year, compared with 40 providers in Oregon, a state with about the same population, according to Universal Service Administrative Company reports to the FCC. The two states had roughly the same poverty rate in 2014, approaching 17 percent.

Lifeline spending last year in Oregon was \$7.3 million; in Oklahoma it was \$108.2 million, of which all but \$88,000 was billed at the higher tribal rate, according to the USAC reports to the FCC. The Oklahoma payments amount to about two-thirds of the \$159.9 million in enhanced tribal payments nationwide.

## **Oklahoma Payments**

Oklahoma authorities, concerned that some companies were enrolling more than the permitted one phone per household, in 2013 began an investigation that resulted in fines, according to Matt Skinner, a spokesman for the Oklahoma Corporation Commission that regulates Lifeline in the state. The agency “cracked down on the practice of merely handing out Lifeline phones to anyone” and created an enforcement unit, Skinner said in an e-mail.

By cutting Oklahoma City (population about 620,000 people) from the regions regarded as former tribal areas, the program expects to save \$30 million to \$40 million annually, said Mark Wigfield, an FCC spokesman.

Offering enhanced tribal subsidies in urban areas “does not reflect poorly” because the payments encourage building of telecommunications and makes services more affordable, he said in an e-mail.

Wireless companies went to court to block the new map, and settled after the FCC delayed implementation for four months, to June 8, to give more time to notify customers.

“This federally-mandated change will make it harder for our customers to stay connected to jobs, health care, family and emergency services and education,” David Dorwart, chairman of Assist Wireless, the largest provider of Lifeline in Oklahoma said in an e-mail.

## **June Order**

On its Web page, Assist says customers may be “very frustrated, angry, or even devastated” and encourages them to write to the FCC, state officials and Oklahoma City’s U.S. Representative Steve Russell. The Republican declined to comment, said Daniel Susskind, a spokesman.

The FCC in its June order changing the map asked if it should also cut Tulsa and other municipalities, such as Reno, Nevada, and Anchorage, Alaska, from enhanced tribal areas.

The notion is “deeply offensive,” Jefferson Keel, lieutenant governor of Chickasaw Nation based in Ada, Oklahoma, said in a Sept. 28 letter.

To “balance the budget on the backs of the poorest and most vulnerable is unacceptable,” Keel said. Changing tribal lands “smacks of a bygone era of the misdeeds” as “something that was given is taken back, and yet again, land is taken away.”

## **Bloomberg Technology**

by Todd Shields

April 27, 2016 — 2:00 AM PDT

Copyright © 2024 Bond Case Briefs | [bondcasebriefs.com](http://bondcasebriefs.com)