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## Court Ruling a Win for Tribes and Wireless Resellers

In a clear win for tribes and wireless resellers, the U.S. Court of Appeals for the District of Columbia has overturned restrictions on the federal Tribal Lifeline Program that the Federal Communications Commission (FCC) had adopted in 2017.

Under the Tribal Lifeline Program, eligible customers on tribal lands receive a \$25-a-month subsidy to help pay for wireline or wireless phone and broadband service. In its 2017 order, the FCC ruled that this subsidy could only be used to buy services from telecommunications companies that use their own network facilities. The effect of the rule change was to preclude phone companies that resell wireless services using other carriers' networks from taking part in the program, even though most Tribal Lifeline recipients obtained service from resellers. The FCC also limited the program to tribal lands in rural areas.

The court [ruled](#) that the FCC had failed to appropriately consider a number of key problems with its new approach, including the effect that barring resellers from the program would have on the ability of those on tribal lands to access affordable services, that carriers with their own facilities were uninterested or unwilling to offer Tribal Lifeline services, and that wireless resellers had come to rely on the FCC's previous determination that they could participate in the program. The court also found that the FCC had not complied with appropriate rulemaking procedures by failing to allow tribes and others a meaningful opportunity to comment on the changes.

The court's decision is not surprising given that it had previously stayed the FCC's new rules from taking effect, as we noted in an [alert](#) released in December regarding the difficulties in deploying broadband on tribal lands. With this latest decision, the court resolves the appeal, eliminates the ban on resellers and the rural limitation, and sends the matter back to the FCC, which will have to start a new rulemaking if it wants to once again adopt similar restrictions.

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*This document is intended to provide you with general information about a ruling from the U.S. Court of Appeals for the District of Columbia overturning the FCC's restrictions on the Tribal Lifeline Program. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.*