

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform)	WT Docket No. 10-208
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	

**REPLY COMMENTS OF
THE NATIONAL TRIBAL TELECOMMUNICATIONS ASSOCIATION**

I. INTRODUCTION AND SUMMARY

The National Tribal Telecommunications Association (NTTA) provides these reply comments to the Federal Communications Commission’s (FCC) Further Notice of Proposed Rulemaking (FNPRM) in which it proposed certain near term and longer term reforms to the rate-of-return (RoR) carrier federal universal service support mechanisms.¹

NTTA consists of Tribally-owned communications companies including Cheyenne River Sioux Telephone Authority, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc., Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Tohono O’odham Utility Authority, and Warm Springs Telecom. NTTA’s mission is to be the national advocate for telecommunications service on behalf of its member companies and to provide

¹ *Further Notice of Proposed Rulemaking*, WC Docket No. 10-90, et al., released June 10, 2014

guidance and assistance to members who are working to provide modern telecommunications services to Tribal lands.

NTTA responds to issues raised in the FNPRM and in comments relating to support for middle mile infrastructure, to the Commission's plan for a voluntary election to a cost model-based support mechanism, and to comments made by other parties.

II. MIDDLE MILE INFRASTRUCTURE

NTTA appreciates the attention being paid by the Commission to issues regarding middle mile infrastructure availability in Tribal areas.² The availability and cost of quality middle mile services in Tribal areas, as noted, is of great concern to broadband providers and represents one, of many, roadblocks to ensuring all Americans, especially those living in Tribal areas, have access to affordable state-of-the-art broadband services.

In the FNPRM the Commission describes a middle mile infrastructure construction support plan proposed by the Alaska Rural Coalition (ARC).³ The ARC plan would, among other things, provide for \$25 million of annual support for at least five years for middle mile infrastructure construction, and \$10 million in annual support to purchase access to existing middle mile infrastructure.⁴ NTTA first notes that the Commission proposes to provide the same level of funding as recommended by ARC, which related to middle mile access issues in Alaska only. Clearly, in order to adequately address middle mile infrastructure access issues in Tribal areas outside of Alaska, the Commission would need to consider increasing the funding available.

In their most recent comments, ARC notes that in order to increase the broadband speed benchmark, there must be access available to adequate middle mile infrastructure.⁵ NTTA has elsewhere advocated that the Commission's definition of "advanced telecommunications capability" must reflect a forward-looking down and upstream speed.⁶

² FNPRM at 300

³ *Id.*, at 301, referencing Comments of the Alaska Rural Coalition, WC Docket No. 10-90 at 9 (Filed February 19, 2013)

⁴ *Id.*

⁵ ARC Comments, WC Docket No. 10-90, et al., filed August 8, 2014 at 3 (*8/8/14 ARC Comments*)

⁶ See NTTA Comments, GN Docket No. 14-126 (Tenth Broadband Progress Report NOI), filed September 4, 2014

Inherent in any discussion of ensuring Americans living in Tribal areas have access to adequate and forward-looking broadband speeds is the availability of adequate middle mile infrastructure. If access to such infrastructure is not available, or is cost prohibitive and not being provided via competitive market conditions, then the Commission must step in and ensure adequate middle mile services are available. The proposal made in the FNPRM is a good first step - a recognition that a problem exists.

The next step will be to address the scope of the problem. Based on the lack of access to middle mile infrastructure in Alaska, the ARC suggests the plan as discussed above could help alleviate the problem. However, in order to conclude that the solution for all Tribal areas is the same scope as the solution for Tribal areas in Alaska, one must assume that non-Alaska Tribal areas already have affordable access to adequate middle mile services. This is plainly not the case in the areas served by NTTA members. ARC agrees that providing funding at the levels it originally proposed is inadequate for addressing middle mile infrastructure access problems in all Tribal areas.⁷

NTTA members often have to rely on one provider for middle mile services, and generally this provider is the local price cap regulated carrier. While service is generally available, NTTA members find that the services are cost prohibitive⁸ or the available infrastructure is of insufficient capacity. As a result, NTTA members must either “make do” with available infrastructure (and risk providing substandard speeds) or find alternative sources. In order to find alternative sources, or even to reach the sole source of middle mile services, NTTA members oftentimes must build out to meet the nearest middle mile infrastructure access point.⁹ Obviously, this takes time, planning, and most importantly, capital. This is where the Commission must step in - where capital is in short supply and independent business cases do not exist that allow for unsupported access to or construction of middle mile infrastructure and services. In addition, the cost of meeting the nearest middle mile access

⁷ 8/8/14 ARC Comments at 44

⁸ An informal survey of NTTA members revealed middle mile costs ranging from \$10 per megabit to \$50 per megabit of capacity.

⁹ NTTA members also experience below average reliability due to connections with providers containing single points of failure.

point is only part of the problem - as stated above, NTTA members often also face cost prohibitive rates and inadequate capacity.

NTTA recommends the Commission move forward with its proposal to specifically support the construction of and access to middle mile infrastructure in Tribal areas for two main reasons. First, the cost is often prohibitive and the reliability and capacity of current middle mile services is often inadequate, solutions for which must include financial support. Second, as NTTA argues above and elsewhere, the broadband service speeds targeted for Tribal areas needs to increase substantially, meaning there will be more demand for middle mile capacity. However, in order to meaningfully address this issue, there will need to be more financial support dedicated to middle mile infrastructure and services in Tribal areas. While NTTA is not in a position to provide the Commission with a legitimate support figure, the amounts proposed in the *FNPRM*, which were based on needs in Alaska only, are obviously not sufficient to address Alaska and non-Alaska Tribal areas.

III. LONG TERM CAF PROPOSALS

The Commission proposes several longer-term reforms to the rate-of-return (RoR) carrier federal support mechanisms, including the adoption of a voluntary election to become subject to a CAF Phase II-like mechanism. As a threshold item, NTTA notes that the Commission has committed to ending the legacy support programs as they currently exist.¹⁰ Given the Commission's obvious preference for forward-looking cost models¹¹, this "election" is illusory - either the RoR carrier chooses CACM-based support now, or it is forced upon the carrier later. NTTA has several concerns about this proposal.

First, the Commission's plan is modeled off of the ITTA plan, which incorporates the results of the Connect America Cost Model (CACM).¹² Several parties have expressed concern about the use of the CACM for RoR carriers.¹³ NTTA concurs with these comments, and adds

¹⁰ *In the Matter of Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, et al, FCC 11-161, rel. November 18, 2011 (*Transformation Order*) at 1031

¹¹ *See e.g.*, *FNPRM* at 269

¹² *FNPRM* at 276-299

¹³ *See e.g.*, August 8, 2014 Comments filed in WC Docket No. 10-90, et al by Rural Associations at 66, Small Company Coalition at 7-9, Alexicon at 6-7

that any concerns in regards to applying the CACM to RoR carriers are increased when it comes to serving Tribal areas. As the Commission has recognized consistently, serving Tribal areas includes a number of unique challenges, including the existence of chronically impoverished communities with a historical lack of critical infrastructure, and that Tribal-based economies lack fundamental characteristics with non-reservation economies. These, and many other factors, demand that the Commission move forward cautiously with any application of “one size fits all” cost modeling to Tribal areas.

Second, the ITTA plan contains some troubling features that, if not revised, could cause substantial harm to carriers serving Tribal areas. The ITTA plan contemplates using the CAF Phase II / CACM mechanism to not only generate costs, but also to distribute support. In addition, NTTA understands that the CACM generates costs of service only for census blocks that do not have access to broadband at certain (4 mbps / 1 mbps) speeds. These two features alone would result in a drastic reduction in support for NTTA members, and the proposed CAF Phase II-like mechanism appears to completely ignore the cost of current operations, upkeep and upgrade of current voice and broadband networks, and other realities of providing service in Tribal areas.

Finally, it is clear that the CAF Phase II-like mechanism that would be made available on a voluntary basis allocates a fixed amount of support among participating carriers, thus making the only relevant cost determination that of relative costs.¹⁴ In other words, support is not directly tied to total costs, but rather how one carrier’s costs relate to another’s. This method will not allow the support necessary to ensure Native Americans living in Tribal areas have access to the levels of broadband services necessary to participate in the 21st Century Global economy.¹⁵ There will need to be more support available, especially in Tribal areas, if rural areas of the United States are to catch up with and then keep up with Organization for Economic Co-operation and Development (OECD) standards in terms of broadband speeds and values.¹⁶ Other studies reveal much of the same troubling trend - the United States is behind

¹⁴ See e.g., Comments of the Nebraska Rural Independent Carriers (NRIC), WC Docket No. 10-90, et. al., (August 8, 2014) at 31-32

¹⁵ See NTTA’s comments filed in GN Docket No. 14-126 (September 4, 2014)

¹⁶ See e.g., OECD (2014), “The Development of Fixed Broadband Networks”, OECD Digital Economy Papers, No. 2398, OECD Publishing, available at www.oecd.org

the rest of the developed world in broadband deployment.¹⁷ Simply adopting a method to reallocate an existing amount of fixed support will not move the United States or Tribal areas any closer to leading the global broadband economy. Therefore, adopting the ITTA plan, whether on a voluntary or mandatory basis, does nothing to solve this problem and, in all likelihood, will only serve to exacerbate it.

IV. CONCLUSION

NTTA commends the Commission's focus on Tribal areas in regards to the challenges of access to adequate middle mile facilities. However, the Commission must increase the amount of support allocated to this endeavor as it is obvious that the amounts proposed in the FNPRM are inadequate, especially considering the immense gap that exists between today's Tribal broadband reality and the broadband bar being set by wealthy nations (OECD nations) around the globe. NTTA also opposes, in any form, the use of a CAF Phase II-like process for determining the future support levels necessary to maintain and enhance voice and broadband services in Tribal areas.

Respectfully Submitted,

Godfrey Enjady
President
National Tribal Telecommunications Association

September 8, 2014

¹⁷ The United States does not place in the top 10 in either Global Average Connection Speeds or Global Broadband Connectivity (*Akamai's State of the Internet*, Q1 2014 Report)