



June 19, 2015

Ex Parte Communication

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

Re: In the Matter of Connect America Fund, WC Docket No. 10-90; NTTA Proposal for a Tribal Broadband Factor

Dear Ms. Dortch:

This letter is submitted by the National Tribal Telecommunications Association (“NTTA”) to propose adoption of a Tribal Broadband Factor (“TBF”) as part of the reform of the long term federal universal service fund (“USF”) for rate-of-return carriers being considered by the Federal Communications Commission (Commission).¹ NTTA’s members are all Tribally-owned and operated carriers, and NTTA’s mission is to be the national advocate for telecommunications service on behalf of its member companies and to provide guidance and assistance to members who are working to provide modern telecommunications services to Tribal lands.

As the Commission is aware, section 1 of the Communications Act states clearly the policy of the United States - “to make available, so far as possible to all the people of the United States...a rapid, efficient, Nation-wide... wire and radio communication service with adequate facilities at reasonable charges.”² Section 254 builds on that commitment by charging the Commission with developing a universal service support mechanism designed to address a number of specific needs. As the provision relates to rural and high-cost areas, the Commission is directed to “base policies for the preservation and advancement of universal service” on ensuring that consumers have access to “telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas.”³ To assist the Commission in meeting these

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.

² 47 U.S.C. § 151.

³ 47 U.S.C. § 254(b)(1).

commitments, NTTA offers this proposal, which is designed to address the broadband deployment canyon that exists on Tribal lands by targeting additional funding to any rate-of-return carrier serving such lands in recognition of the higher costs associated with extending broadband service to these communities.⁴

The record is clear, and has been clear, since at least the release of the National Broadband Plan over five years ago.⁵ Tribal areas, in order to reach the national goal of universal broadband service, require more support than is currently available. NTTA's proposal provides a reasonable way to start meeting this goal, and should be considered by the Commission as it investigates long term universal service fund reform during 2015.

I. Basics of the Tribal Broadband Factor

NTTA proposes adoption of the TBF, which is a straightforward component that would be added to a non-model based mechanism, such as the Data Connection Service (DCS) proposal made by the Rural Associations, which are comprised of NTCA, The Rural Broadband Association, Western Telecommunications Association, Advocates for Rural Broadband and the National Exchange Carriers Association (NECA).⁶

TBF Funding: Just like the Tribal coefficient adopted by the Wireline Competition Bureau in regards to the quantile regression analysis⁷, NTTA believes the TBF factor should be 1.25x and applied to the amount rate of return (RoR) carriers serving Tribal lands would otherwise receive absent this multiplier.⁸ The need for additional funding to reach Tribal lands has been recognized by the Commission not only in adoption of the Tribal coefficient, but also in the implementation of a Tribal Lands Bidding Credit to providers willing to serve Tribal lands.⁹ The 1.25x factor is equivalent in scope to the 25 percent credit the Commission provided in the Tribal Mobility Fund Phase I and the Mobility Fund.¹⁰ NTTA believes the use of these benchmarks

⁴ Connecting America: The National Broadband Plan at 152 Box 8-4 (*noting* "many Tribal communities face significant obstacles to the deployment of broadband infrastructure, including high build out costs...[and] accelerating Tribal broadband deployment will require increased funding).

⁵ See NTTA June 5 Ex Parte (for a description of the basis for providing additional targeted support to Tribal lands).

⁶ NTCA, WTA, NECA, Ex Parte Notice, Connect America Fund, WC Docket No. 10-90 available at <http://apps.fcc.gov/ecfs/comment/view?id=60001029634> (Apr. 21, 2015) (Rural Associations DCS Proposal). The NTCA Proposal and other versions of similar proposals work to transition support over time from voice and data to stand-alone or data-only broadband support. The TBF is designed to work in conjunction with this or a similar framework.

⁷ The Tribal Coefficient in regards to the QRA mechanism was adopted via the April 25, 2012 Order (DA 12-646) in WC Docket Nos. 10-90 and 05-337

⁸ *Connect America Fund; High-Cost Universal Service Support*; WC Docket Nos. 10-90, 05-337, Order, 27 FCC Rcd. 4235 (2012). For some NTTA members, this Tribal coefficient equated to additional high cost loop support necessary to offset the high cost of providing service to their sparsely populated communities that had no voice or broadband-capable service or only limited voice or broadband-capable service.

⁹ 47 C.F.R. § 1.2110(f)(3)(iii)-(iv).

¹⁰ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up*; WC Docket Nos. 10-90, 07-135,

offer the Commission sufficient support for adopting the TBF. Should the Commission require additional information to verify the added costs associated with serving Tribal lands, NTTA member companies stand ready to work with the Commission, as some of our members did in developing the Tribal coefficient, to provide the Commission more specific information.

Targeting Support: NTTA recommends targeting TBF support to all rate-of-return carriers serving Tribal lands and limiting the applicability of TBF support to census blocks that include Tribal lands within the service area of the rate-of-return carrier. Targeting support in this manner would allow the Commission to ensure that its policy directive of expanding broadband is achieved and done so in a way that minimizes the impact to the fund by ensuring that additional support is narrowly-tailored.¹¹

In addition, NTTA recommends that the TBF be an “opt in” mechanism for rate-of-return carriers. For those rate-of-return carriers opting out of the recommendations and requirements contained in this proposal, the TBF funding would not be available. Because this additional funding would present a unique opportunity to promote greater deployment of broadband to Tribal lands, NTTA further recommends that the Commission make clear that this election should be part of the Tribal engagement process adopted in the *2011 Connect America Fund Order*.¹² Affording carriers some flexibility in making this determination is consistent with other Commission decisions regarding build out obligations and allows carriers an opportunity to determine whether they can meet the additional obligations associated with accessing this funding.

TBF-Specific Obligations: NTTA suggests that it would be reasonable that the additional 1.25x TBF be used in the determination of a capital expenditure (“Capex”) budget for all rate-of-return carriers serving Tribal lands. By setting aside the funds in this manner, the Commission would be able to ensure that these specific funds are used to promote the deployment of broadband infrastructure on Tribal lands.

NTTA fully understands the Commission’s need to ensure that support is helping the Commission achieve the objective of bringing greater deployment of broadband to Tribal lands and that other programs have adopted build-out obligations in conjunction with the offer of

05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17808 para. 430 (2011) (*2011 Connect America Fund Order*).

¹¹ Note our proposal would not cover Alaska providers because they have put forward a separate proposal for the Commission to consider. See *Consensus Alaska Plan*, filed by Alaska Telephone Association, WC Docket No. 10-90 available at <http://apps.fcc.gov/ecfs/document/view?id=60001031722> (Feb. 20, 2015). Therefore, based on initial research, NTTA’s TBF would apply to the approximately 80 RoR carriers whose service area includes portions that are Tribal lands. NTTA ran a query of all carriers that claim to serve Native Nations from the National Broadband Map database (352 carriers). That list was then compared to a list of ILECs and holding companies from the 2014-1 USF database created by NECA, thus arriving at the approximately 80 companies and/or holding companies.

¹² *2011 Connect America Fund Order*, 27 FCC Rcd. at 17859 para. 604.

additional support.¹³ NTTA looks forward to working with the Commission on specific build-out obligations that would need to accompany this additional support. In addition, there are certifications and progress reports that could be added to help ensure the Commission has the information it needs to judge the success of the TBF in promoting broadband deployment on Tribal lands. For example modifications could be made to the Form 481 Certifications to provide the Commission regular certified updates on progress.¹⁴

TBF Annual Support Amount: If the Commission implements the 1.25x TBF, NTTA projects the estimated dollar impact of employing the TBF on the overall fund would be approximately \$25 million. To derive this estimate, NTTA ran a query of all carriers that claim to serve Native Nations from the National Broadband Map database. That list was then compared to a list of ILECs and holding companies from the 2014-1 USF database created by NECA. Based on those inputs, NTTA determined that approximately 80 companies and/or holding companies have in their service areas census blocks that include Tribal lands. We then used funding level data contained in the appendix submitted by the Rural Associations in their April 21st 2015 ex parte filing and determined that the potential size of the TBF would be approximately \$25 million annually.

NTTA has worked to develop a Tribal mechanism that is structured to target support for a specific purpose. We would urge that the Commission identify funding for this effort, possibly by accessing some of the Connect America Fund or other universal service reserves that the Commission has used in other instances.

Example of Support Mechanism: We provide the following example to illustrate how the TBF mechanism would be implemented. Assume a rate-of-return carrier has 1,000 connections spread over two census blocks, and one census is Tribal land.¹⁵ Assume that the census block serving Tribal land has 400 connections. Finally, assume total support of all census blocks is \$500,000. The TBF for the qualifying census block would be:

- Census Block 1: 600 connections
- Census Block 2: 400 connections ****Only Census Block 2 is eligible for TBF****
- USF Support without TBF for Census Block 2 = $((400/(400+600)) = 40\% \times \$500,000 = \$200,000$
- USF Support with TBF for Census Block 2 = $((400/(400+600)) = 40\% \times \$500,000 = \$200,000 \times 1.25 = \$250,000$

¹³ See 2011 Connect America Fund Order at 17702 para. 103; *Connect America Fund; ETC Annual Reports and Certifications*; WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd. 8769 (2014).

¹⁴ 47 CFR § 54.313.

¹⁵ Consistent with the definition provided in the *Rural Associations DCS Proposal*, our use of the term “connection” refers to both access lines and data connection services. See *Rural Association DCS Proposal*. Altering the definition in this manner addresses the loss of USF support that would occur from offering a data-only broadband service under the existing mechanism since such service does not meet the definition of “access lines.”

As this example demonstrates, the TBF would provide an increase in support of \$50,000 for the Tribal lands census block. NTTA believes that an additional increment of support of this percentage for census blocks that contain Tribal lands would be sufficient to cover the additional costs associated with deploying broadband to those areas and, as such, would incentivize rate-of-return carriers to build on those lands.

II. Conclusion

NTTA appreciates the Commission's receptiveness to its proposal in this very important proceeding. Given the comprehensive record related to Indian Country, NTTA believes the above proposal provides reasonable and measured steps toward long term USF reform for RoR carriers serving Tribal lands. The TBF offers many benefits, including:

- The proposal is narrowly-tailored to address the specific need to promote broadband deployment to Tribal lands, which are perhaps the least served areas in our nation.
- The proposal shows good faith in phasing out legacy support and recognizing the need for continued broadband deployment in Indian Country
- The proposal has no impact on Eligible Recovery/CAF ICC funding
- The proposal provides for a fair-share broadband end user charge
- The proposal causes very little pressure on the overall USF system
- The proposal is straightforward and easily understood

NTTA looks forward to working with the Commission with regard to the proposal outlined above and commends the Commission for taking steps toward long term USF reform on Tribal lands.

Sincerely,

/s/

Godfrey Enjady
President
National Tribal Telecommunications Association

cc: Geoffrey Blackwell, ONAP
Irene Flannery, ONAP