

Congress of the United States
Washington, DC 20515

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September 12, 2018

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai,

We are extremely concerned by the Government Accountability Office (GAO)'s September 7, 2018 report, "FCC's Data Overstate Access on Tribal Lands," which found that the Federal Communications Commission (FCC) overstated broadband access on Tribal lands. Inaccurate broadband access data adversely impacted the ability of Tribal communities to obtain the federal broadband deployment funding that they should have been eligible for. As you know, broadband is a necessity that rural communities and Tribes need to grow and survive in our modern economy. Access to broadband increases economic activity, creates business opportunities, improves health outcomes, helps students learn, and increases agricultural production.

The current method the FCC uses to measure broadband access involves the analysis of census blocks, geographical areas used by the Census Bureau to obtain demographic data. However, the report makes it clear that this method is ineffective and inaccurate because it (1) counts entire census blocks as being served even if only one location on the block has broadband; (2) counts census blocks as being served as long as there is merely the potential to add infrastructure connecting homes to networks; and (3) does not collect information on affordability, service quality, and denials of service, which diminish access to broadband even in areas where it technically exists.

The FCC has a long-term strategic goal to increase access to affordable broadband for all Americans. It uses broadband access data in order to make informed funding decisions to accomplish that goal and target resources in areas that need it most. Unfortunately, the use of faulty data that understates broadband access in Tribal areas increases the risk that Tribal residents will continue to lack the funding they need to access high-speed internet. For example, the report found that representatives from one tribal government said that they will not be able to use a federal grant to build broadband infrastructure in currently unserved areas that FCC's data overstated broadband access. Additionally, inaccurate data undermines our efforts as Member of Congress to enact legislation expanding affordable broadband access in underserved areas.

High-speed internet has revolutionized every aspect of our economy, but there unfortunately remains a distinct rural-urban broadband access divide. This gap is unacceptable, which is why federal funding for

broadband internet deployment is so crucial and why that funding must be distributed fairly. Nowhere is the problem more severe than in New Mexico and Arizona. According to the FCC's most recent data, 54% of New Mexicans and 62% of Arizonans living in rural areas and 65% of New Mexicans and 91% of Arizonans living on Tribal lands lack broadband, compared to only 2% of urban Americans nationally.¹ While these numbers are already disturbing, this new GAO report calls into question whether these data is misleading and whether the actual situation is even worse.

The problems outlined in the GAO's report constitute a clear violation of the federal government's trust responsibility to appropriately administer federal programs designed to raise the standard of living and increase economic prosperity in Tribal areas. The FCC should immediately work with Tribal stakeholders on all current and future broadband deployment projects to ensure that federal funds are appropriately and effectively spent. Additionally, we would like to know how the FCC intends to correct the method it uses to measure broadband access in order to ensure that it is not overstated in the future. Lastly, please provide us with up-to-date and accurate reports for broadband access on Tribal lands in New Mexico and Arizona. We look forward to your response on this urgent matter.

Sincerely,



Michelle Lujan Grisham
Member of Congress



Tom O'Halleran
Member of Congress

¹ Federal Communications Commission Fixed Broadband Deployment Map (June 2017). broadbandmap.fcc.gov/#/area-summary?version=jun2017&type=nation&geoid=0&tech=acrow&speed=25_3



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

December 31, 2018

The Honorable Michelle Lujan Grisham
U.S. House of Representatives
214 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Lujan Grisham:

Thank you for your letter about the Government Accountability Office's (GAO's) September 2018 report regarding broadband access on Tribal lands. Closing the digital divide is the Federal Communications Commission's top priority. As you observe, nowhere is that divide more starkly pronounced than in Indian Country. This is a situation that needs to change, and I am committed to changing it.

The Commission aims to ensure that we collect the best possible data with respect to broadband access on Tribal lands and is working to address each of the three recommendations advanced by the GAO. As described in their August 22, 2018 response to the GAO's draft report, the Chiefs of the FCC's Wireline Competition Bureau and Consumer and Governmental Affairs Bureau highlighted numerous efforts the Commission is already undertaking to develop better data on broadband service on Tribal lands. Central to these efforts is the Commission's ongoing rulemaking proceeding in which we are exploring revisions to our Form 477 collection of broadband deployment data in order to increase the accuracy and usefulness of that data. Recognizing the potential benefits of increased granularity, including those you point out, we sought input on revising our methodology for assessing service coverage. We are committed to making changes that will improve our understanding of broadband deployment across America, including in Tribal areas, and are analyzing various options for data collection with that goal in mind. We have also begun the process of compiling a report and starting a subsequent rulemaking on related issues, as required by RAY BAUM'S Act of 2018.

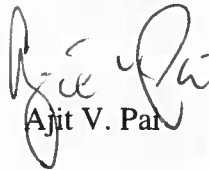
As we move forward with these efforts, I have asked staff to expand their ongoing engagement with Tribal stakeholders so that their views and insights more fully inform our efforts to identify and develop measures to address unserved Tribal areas. I personally have participated extensively in such engagement, having consulted with Tribal officials everywhere from the Navajo Nation to the Rosebud Sioux Reservation to the National College of American Indians' Mid-Year Conference in Connecticut and met with numerous Tribal representatives at the FCC's headquarters (including, just a few weeks ago, the Native Nations Communications Task Force). In addition to that, the Commission's substantive decision-making has been meaningfully informed by Tribal participation. For example, Tribal governments were able to participate directly in the Mobility Fund Phase II challenge process—a process that is helping guide the FCC's determination of where to direct subsidies necessary for mobile broadband deployment. And as part of our ongoing engagement with Tribes, we plan to seek input from

Page 2—The Honorable Michelle Lujan Grisham

Tribes and service providers on the Commission's 2012 statement on Tribal engagement, consistent with the Report's recommendation.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Patel



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

December 31, 2018

The Honorable Tom O'Halleran
U.S. House of Representatives
126 Cannon House Office Building
Washington, D.C. 20515

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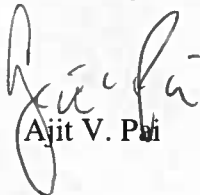
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Sincerely,

A handwritten signature in black ink, appearing to read "Ajit V. Pai". The signature is stylized with a large initial "A" and a long horizontal stroke extending to the right.

Ajit V. Pai