



NATIVE AMERICAN TELECOM COMPANIES

Crow Creek Indian Reservation, Fort Thompson, South Dakota 57339

Pine Ridge Indian Reservation, Pine Ridge, South Dakota 57770

May 3, 2019

Via ECFS Filing

Ms. Marlene Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

***Re: Updating the Intercarrier Compensation Regime To Eliminate Access Arbitrage, WC
Docket No. 18-155***

Dear Ms. Dortch:

The Native American Telecom Companies (Native American Telecom, LLC and Native American Telecom – Pine Ridge, LLC)¹ hereby file this Ex Parte letter with a proposed path forward for re-evaluating the intercarrier compensation regime for rural local exchange carriers

¹ The Native American Telecom Companies are independent rural carriers serving some of the most rural, low-income areas of the country that lack access to many of the basic necessities of life. The Native American Telecom Companies carry their own traffic, at significant costs, from their tandem in Sioux Falls to their end offices in Pine Ridge (approximately 294 miles) and Fort Thompson (approximately 138 miles), eliminating the need for a CEA provider. The Native American Telecom Companies have established broadband infrastructures on the Pine Ridge and Crow Creek reservations to facilitate economic development, resulting in, for the first time, access to affordable broadband services and digital literacy training.

("Rural LECs"). The factual record in this proceeding is devoid of information supporting the elimination of a critically important revenue source – access charges for certain types of telecommunications traffic -- for Rural LECs. The main proponents of the elimination of access charges are the entities with the legal obligation to pay Rural LECs for the termination of interexchange carrier traffic. It is instructive to put the interexchange carriers' advocacy in perspective with respect to access charges. Over the years, the interexchange carriers have sold their rural exchanges, stopped actively marketing and serving rural areas, relinquished their universal service obligations, and refused to pay lawful interconnection charges, all with the single goal of reducing their costs of serving rural America and focusing on their profitable urban and business markets. The Native American Telecom Companies urge the Commission to refocus the intercarrier compensation inquiry on the interests of rural America.

The Native American Telecom Companies applaud the Commission's recent announcement that it will initiate a proceeding to close the broadband gap on Tribal lands and its recognition that additional work remains to close the digital divide for all Americans.² As a broadband service provider serving exclusively the Tribal lands comprising the Pine Ridge and Crow Creek Indian reservations, the Native American Telecom Companies understand the challenges of closing the broadband gap on Tribal lands and has achieved success in this regard by a two-prong approach – (1) providing **affordable** access to broadband services and (2) offering **digital literacy training** to residents of Tribal lands. The Native American Telecom Companies look forward to participating in the new proceeding to close the broadband gap on Tribal lands and provide their insights into how they have established broadband infrastructures for business, economic and social development by attracting new businesses to historically underserved Tribal lands.

Turning back to this intercarrier compensation proceeding, the Commission needs to recognize that its actions will have a significant impact on the deployment of service in rural America. The importance of the issues in this proceeding cannot be overstated because a

² See *Report on Broadband Deployment in Indian Country, Pursuant to the Repack Airways Yielding Better Access for Users of Modern Services Act of 2018*, prepared by the Consumer & Government Affairs Bureau, Wireless Telecommunications Bureau, Wireline Competition Bureau, May 2019.

“wrong” decision could result in the loss of critical broadband services in rural America. Many of the interexchange carriers have concocted stories and false narratives to support their overzealous advocacy without regard for the impact on rural areas.³ The Native American Telecom Companies recommend that the Commission take a step back and develop a more complete and accurate factual record. The facts versus fiction in this proceeding highlight the need for a better factual record.

Fact: Rural LECs serve a critical role in delivering telecommunications and broadband services to rural America, which is made possible, in part, by businesses, government entities, and other high-volume users, like conference operators, located within their service areas.

Fiction: Interexchange carriers are harmed by paying Rural LECs for transporting and terminating their interexchange customers’ traffic.

Fact: Rural LECs, who transport and terminate traffic over their own facilities, have a right to be compensated for the use of their facilities to transport and terminate ALL telecommunications traffic, including conferencing and other high-volume traffic.

Fiction: Interexchange carriers deserve the unique and special right to have Rural LECs transport and terminate their traffic for free.

Fact: Rural LECs offer direct connection to their end offices for the termination of other carriers’ traffic, which the interexchange carriers could take advantage of today.

Fiction: Interexchange carriers have pursued and negotiated in good faith interconnection arrangements for the exchange of telecommunications traffic.

Fact: Interexchange carriers have resorted to nonpayment and other unlawful practices in an attempt to dictate the rates, terms and conditions for the termination of telecommunications traffic. It is also true that commercial

³ For example, Inteliquent has claimed the Native American Telecom Companies are not actually providing service and are unlawfully terminating traffic. Inteliquent fails to inform the Commission that it inspected the facilities of the Native American Telecom Companies and witnessed first-hand, or at least had the opportunity to see for themselves, the actual services being provided and the significant benefits of Native American Telecom Companies’ affordable broadband offerings with digital literacy training, not to mention that the Native American Telecom Companies are operating independently and consistent with all applicable requirements.

arrangements have largely replaced access charges and have resulted in the resolution of most intercarrier compensation issues and disputes.

Fiction: Rural LECs receive an implicit subsidy from access charges for the termination of high volumes of telecommunications traffic.

Fact: Rural LECs incur significant costs to extend service to rural areas, which for the Native American Telecom Companies is more than a half of million dollars per year. This fact is often overlooked, but is one of the main reasons for the lack of services in rural areas. As in urban areas, higher volumes of traffic enable carriers to recover these transport and termination costs.

There are many more illustrations of the lack of facts and the peddling of fiction in this proceeding, but the foregoing points highlight the need for a more complete and accurate record before the Commission adopts further changes to the intercarrier compensation regime. The Native American Telecom Companies recommend that the Commission adopt a Further Notice of Proposed Rulemaking to develop a more complete and accurate factual record or, alternatively, the Commission should initiate a formal investigation into intercarrier compensation with a fact-finding discovery process.

Any questions concerning this filing should be directed to the undersigned.

Respectfully submitted,

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