

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
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 a Unified Inter-carrier Compensation Regime)	CC Docket No. 01-92

COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.

I. INTRODUCTION

Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these comments in the above-referenced proceeding in which the Federal Communications Commission (“FCC” or “Commission”) seeks further comment on reforms to the rate of return programs.¹ GRTI urges the Commission to take steps designed to promote robust deployment in rate-of-return (“ROR”) areas by increasing the support available under the high-cost program generally and to specifically provide additional support for carriers that serve Tribal lands through a tribal broadband factor for both A-CAM and legacy ROR support providers.

¹ *In the Matter of Connect America Fund, et. al.*, Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, WC Docket Nos. 10-90, et. al. (FCC 18-29, rel. March 23, 2018) (*2018 ROR NPRM*).

II. Increase the Size of the High-Cost Fund to Reflect Increased Broadband Demand and Inflation

GRTI files these comments in support of the Commission's proposal to increase the support amount available through the high-cost support mechanism.² In the *2018 ROR NPRM*, the Commission seeks comment on whether it should take steps to increase the overall size of the high-cost support mechanism.³ Over the last seven years, the Commission has taken numerous steps designed to reform the universal service program by capping many of the support mechanisms while, as the Commission recognizes, increasing deployment requirements and thus funding demands on ROR carriers.⁴ These actions have been taken with a budget that has not increased in over seven years to reflect those new demands. The theory behind the Commission's approach to increasing the requirements while not increasing support was that there were inefficiencies within the mechanisms that if reformed would net savings that would be sufficient to provide the needed support to cover new demands.⁵

While it is certainly the case that there was room for reforms to better target support and savings were realized, the Commission has increasingly heard from carriers that some of the reforms they have undertaken have gone too far and are creating financial hardships that threaten

² *2018 ROR NPRM* at para. 107.

³ *Id.* at paras. 107-116.

⁴ *Id.* at para. 108.

⁵ See *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; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17668, para. 5 (2011); *Connect America Fund et al.*, WC Docket No. et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3089 para. 1 (2016).

their ability to serve their rural communities.⁶ As evidence one need only look at the broader record in WC Docket # 10-90 to see the numerous requests for relief or special consideration that have been sought by ROR carriers. The Commission has received waiver requests for individual carriers presenting unique needs for relief to allow for transitions or relief from the cuts that the reforms would mete out on them. The Alaska ROR carriers banded together to seek, and were rightly granted, a reset of the high-cost reforms undertaken by the Commission in 2011 in recognition of the very high-cost to serve most areas in that state. And tribal carriers, like GRTI and other members of the National Tribal Telecommunications Association (NTTA) came together to propose a mechanism that would provide increased support in exchange for increased broadband deployment and operating expense relief to reflect the higher costs associated with serving tribal lands, the Tribal Broadband Factor. These filings provide evidence of a support mechanism that lacks sufficient funding to meet the broadband needs of the communities these carriers serve.

As further evidence of the lack of sufficient funding for the high-cost programs, GRTI notes that a bipartisan group of more than 130 members of the House of Representatives and a bipartisan group of 61 Senators sent letters to the Commission stating that “the high-cost program has been and remains insufficient...This persistent insufficiency is affecting the ability of smaller rural broadband providers to effectively deliver broadband services in the most rural areas of America.”⁷ This is significant because Congress, in the Telecommunications Act of

⁶ *Connect America Fund; Universal Service Reform; Connect America Fund – Alaska Plan*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139 (2016); *see also* GRTI Comments, WC Docket No. 10-90, May 12, 2016, NTTA Comments, WC Docket No. 10-90, May 12, 2016, WC Docket No. 10-90.

⁷ Letter from Rep. Kevin Cramer, Colin Peterson, et. al., to Chairman Ajit Pai, available at <https://www.dropbox.com/s/qwy2e3ft3gw7vr7/USF%20Letter%20to%20FCC%20Chairman%20Pai%20final%20letter.pdf?dl=0> (May 15, 2018); Letter from Sen. Deb Fischer, Amy Klobuchar, et. al., to Chairman Ajit Pai, available at https://www.fischer.senate.gov/public/_cache/files/cc4e543d-edb8-4dd6-81ae-9f0b0a1c9b15/senate-usf-letter-to-fcc-5152018.pdf (May 15, 2018).

1996, directed the Commission to ensure the sufficiency of support to ensure that all Americans had access to an evolving level of communications services and reasonably comparable rates.⁸ While Congress provided the Commission flexibility to design the support mechanisms, they directed the Commission to ensure those mechanisms provide sufficient support. These letters demonstrate that a large majority of senators and a substantial number of members of Congress believe that the Commission is not fulfilling its statutory obligation.

For these reasons, GRTI urges the Commission to adopt a budget that is reflective of the current needs of ROR providers to meet the increased broadband speed demands they are asked to provide not only by consumers, but by the Commission. To that end, GRTI suggests that the Commission adopt a revised budget that adjusts for inflation.⁹ Other mechanisms make an adjustment for inflation, so the mechanism that is designed to promote the deployment of broadband on which the other programs rely, should receive a similar adjustment.¹⁰ GRTI proposes that the Commission use GDP-CPI as the inflation adjustment factor. It has used that factor in other programs and in the high-cost mechanism itself.

GRTI intends to review the initial comments filed in response to this NPRM for suggestions from others on additional adjustments to ensure the high-cost support program provides sufficient support and will provide additional comments at that time.

⁸ 47 U.S.C. § 254.

⁹ 2018 ROR NPRM at para. 107.

¹⁰ See, e.g., 47 C.F.R. § 54.307(a)(1) (provides quarterly adjustment to Schools & Libraries Fund).

III. The Commission Should Adopt a Tribal Broadband Factor

In the *2018 ROR NPRM*, the Commission seeks comment on a tribal broadband factor that would be applied to ROR carriers that receive A-CAM model support.¹¹ GRTI support adoption of a Tribal Broadband Factor but the Commission must apply it to any carrier that serves tribal lands, regardless of the ROR mechanism under which it receives support.

As one of the entities that developed the original Tribal Broadband Factor (TBF) proposal, and through a series of filings and meetings demonstrated the need for additional support to encourage broadband deployment to the least-served communities in America, GRTI was surprised when the Commission omitted inclusion of ROR carriers that receive support through the legacy mechanism. It is unclear why this omission exists and GRTI would assert that the record developed in response to the *2014 Further Notice of Proposed Rulemaking* on this issue, clearly demonstrates not only the need for TBF but also the need for it to apply to all ROR carriers serving tribal lands, regardless of recovery mechanism.

In crafting the TBF, GRTI, NTTA and others worked with the Commission to develop the proposal to meet the Commission's stated objectives of ensuring that additional support was targeted, specific and would be used to accelerate deployment. The proposal GRTI and NTTA put before the Commission would provide a 25 percent increase in support for locations on tribal land and such support would be capped at \$25 million per year for 10 years (specific). It was available to ROR carriers serving tribal lands (targeted) and it set out specific deployment obligations based on a carrier's current deployment level and broadband speeds (accelerated deployment). In the record developed by the Commission on the proposal, not a single

¹¹ *2018 ROR NPRM* at para. 120.

commenter filed in opposition and there was specific support for the proposal.¹² Thus, the record demonstrates that TBF should be applied to all carriers serving tribal lands. For these reasons, GRTI would urge that modification of the proposal in the *2018 ROR NPRM* be made to allow all ROR carriers to receive TBF support to accelerate broadband deployment on tribal lands.

IV. Conclusion

For the reasons set forth herein, GRTI supports the Commission's proposal to increase the current amount of support available to ROR carriers in the high-cost program. Specifically, we support, at a minimum, increasing the current budget to account for inflation, as the Commission has done for other USF programs. GRTI also supports inclusion of a Tribal Broadband Factor that is available to all ROR carriers, regardless of the mechanism through which they receive support. Tribal lands are the least served and to address that divide, the Commission needs to provide additional support to carriers serving tribal lands.

¹² See Sacred Winds Comments, WC Docket No. 10-90, filed May 12, 2016 at 4-5 ("Tribal-specific support by way of an additive to HCLS support and to CAF BLS support should be offered to all RoR carriers that serve Tribal areas where the cost of providing services exceeds the national average for RoR carriers."); Affiliated Tribes of Northwest Indians Comments, WC Docket No. 10-90, filed May 12, 2016 at 3 ("The Commission should adopt a 'Tribal Broadband Factor' to target additional support for infrastructure investment in Indian country."); NTCA – The Rural Broadband Association *Comments*, WC Docket No. 10-90, filed May 12, 2016 at 35-36 ("NTTA's proposal for a 'Tribal Broadband Factor' would appear to represent a reasonable way of 'superimposing' a relatively straightforward solution to this problem atop now-reformed USF mechanisms, and given that the focus of reform should be on the consumer, NTCA believes that support from such a mechanism should be equally available, on an optional basis, to *all* companies that serve Tribal lands."); TCA Comments, WC Docket No. 10-90, filed May 12, 2016 at 8 ("TCA supports the NTTA proposal, which provides a voluntary option for enhanced support accompanied by enhanced buildout obligations." There is not a universal need for this proposal, so it should remain voluntary); Alexicon Telecommunications Consulting Comments, WC Docket No. 10-90, filed May 12, 2016 at 12 (Alexicon fully supports the Tribal Broadband Factor proposal as outlined by National Tribal Telecommunications Association and Gila River Telecommunications.").