

Fort Belknap Indian Community



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Fort Belknap Indian Community
(Tribal Govt.)
Fort Belknap Indian Community
(Elected to administer the affairs of the community and
to represent the Assiniboiné and the Gros Ventre
Tribes of the Fort Belknap Indian Reservation)

June 13, 2016

Received & inspected

JUN 20 2016

FCC Mail Room

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

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RE: Fort Belknap Indian Community Reply Comments in the Matter of Connect America Fund, WC Docket No. 10-90; ETC Annual Reports and Certifications, WC Docket No. 14-58; and Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92.

Dear Secretary Dortch,

On behalf of the Fort Belknap Indian Community we respectfully submit these reply comments for the record in support of developing and adopting a Tribal Broadband Factor in the High Cost Fund. The Gros Ventre and Assiniboiné Tribes are politically organized as the Fort Belknap Indian Community ("FBIC") and as such are a federally recognized Native American tribal government located in the north central part of the State of Montana. Tribal Governments, such as the FBIC, have a government-to-government relationship with the Federal Government.

FBIC government is comprised of approximately three hundred seventy eight employees and provides services in areas of general government, enrollment, police, detentions, court, environmental protection, health services, social services, education/cultural, natural resources, senior center, and housing. The FBIC is governed by the Fort Belknap Indian Community Council which is comprised of a President, Vice-President, Secretary/Treasurer, and eight (8) Council members. The FBIC's administrative offices are located at the FBIC Agency. The FBIC also has six (6) enterprises. The FBIC has a resident population estimated at approximately Five thousand seven hundred seventy one (5,771) individuals and is comprised of the Gros Ventre and Assiniboiné Tribes. The FBIC is comprised primarily of four communities: the FBIC Agency, Hays, Lodgepole and Dodson communities.

The Universal Service Fund (USF) was created by the 1996 *Telecommunications Act* to meet the goals of providing affordable and quality telecommunications services across the country. During this time it was estimated that less than ten percent of tribal lands had access to the Internet, with less than 69 percent of tribal households having access to basic landline

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telephone service. Since the creation of the USF the Federal Communications Commission (FCC) has recognized the disparate levels of telecommunications access on tribal lands and tried numerous methods to address the Digital Divide in Indian Country. Over the past fifteen years telecommunications rates have improved on tribal lands, yet many of our lands lack access to high-speed, affordable broadband services. According to the FCC's 2016 Broadband Progress Report, 41 percent of residents on tribal lands lack access to advanced telecommunications services, compared to ten percent of the overall U.S. population. Furthermore, rural tribal lands and Alaska Native villages lag considerably behind the nation with nearly 70 percent lacking access to high-speed Internet services.

The development and adoption of a Tribal Broadband Factor in the High Cost Fund is long overdue, and its implementation will ensure that increased funds are available to Indian Country to support telecommunications deployment and maintenance. A number of tribes and tribal organizations have already filed comments for the record in support of establishing this Tribal Broadband Factor, and the Fort Belknap Indian Community generally supports those filings.¹

Establishment of Tribal Specific Support Mechanisms Must Ensure Coverage of Certain Operating Expenses & Eligible Telecommunications Carriers Should be Accountable of Funds

The Fort Belknap Indian Community agrees with several comments filed by tribes and tribal organizations that called for the need to ensure certain operating expenses (opex) are covered for an eligible telecommunications carrier (ETC) whose service territory is primarily composed of tribal lands, 50 percent or higher. Comments filed by the National Tribal Telecommunications Association, Gila River Telecommunications, Inc., and Sacred Wind Communications, Inc. outlined certain tribal-specific and unique expenses that ETCs incur from providing and maintaining service on tribal lands.² The Fort Belknap Indian Community agrees with the commenters, and reply comments filed by the National Congress of American Indians, that the FCC must provide either an exemption from the opex limits or an adjustment to the opex limits adopted in the Report and Order portion of the March 23, 2016 rulemaking.

¹ See National Tribal Telecommunications Association. *Comments of the National Tribal Telecommunications Association, WC Docket No. 10-90, WC Docket No. 14-58, and CC Docket No. 01-92.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739675>; Gila River Telecommunications, Inc. *Comments of Gila River Telecommunications, Inc., WC Docket No. 10-90, WC Docket No. 14-58, and CC Docket No. 01-92.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739686>; Sacred Wind Communications, Inc. *Comments - Order on Further Notice of Public Rulemaking, Adopted March 23, 2016.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739585>; Affiliated Tribes of Northwest Indians. *Comments of the Affiliated Tribes of Northwest Indians., WC Docket No. 10-90, WC Docket No. 14-58, and CC Docket No. 01-92.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739599>; and the National Congress of American Indians. *NCAI Reply Comments in the Matter of Connect America Fund, WC Docket No. 10-90; ETC Annual Reports and Certifications, WC Docket No. 14-58; and Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92.* June 8, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001993159>.

² See National Tribal Telecommunications Association. *Comments of the National Tribal Telecommunications Association, WC Docket No. 10-90, WC Docket No. 14-58, and CC Docket No. 01-92.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739675>; Gila River Telecommunications, Inc. *Comments of Gila River Telecommunications, Inc., WC Docket No. 10-90, WC Docket No. 14-58, and CC Docket No. 01-92.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739585>; and Sacred Wind Communications, Inc. *Comments - Order on Further Notice of Public Rulemaking, Adopted March 23, 2016.* May 12, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001739585>

Similarly, the Fort Belknap Indian Community agrees with the National Tribal Telecommunications Associations call for the adoption of a voluntary Tribal Broadband Factor to provide additional capital support for Rate-of-Return carriers serving tribal lands. These two tribal-specific mechanisms will help promote broadband deployment to tribal lands. The Fort Belknap Indian Community also agrees with reply comments filed by the National Congress of American Indians that ETC compliance with the Tribal Government Obligation Engagement Provisions should be required and reported to tribal governments and the FCC to ensure Tribal Broadband Factor funds are being utilized to deploy and maintain telecommunications services on tribal lands.³ The Tribal Government Obligation Engagement Provisions were established in the 2011 USF/ICC *Transformation Order* and required an ETC receiving USF support to demonstrate that they have meaningfully engaged with tribal governments whose lands are included in their service areas.⁴ ETCs were required, at a minimum, to annually document meaningful discussions held with tribal governments on the following:

1. *A needs assessment and deployment planning with a focus on Tribal community anchor institutions;*
2. *Feasibility and sustainability planning;*
3. *Marketing services in a culturally sensitive manner;*
4. *Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and*
5. *Compliance with Tribal business and licensing requirements.*⁵

Commenters in the proceeding have noted specific expenses associated with exercising meaningful tribal engagement and we would urge the Commission to take those into consideration as it looks to developing tribal-specific mechanisms.

The Commission Should Move Forward in Establishing a Tribal Broadband Factor

The Fort Belknap Indian Community agrees with the Tribal Broadband Factor proposal advanced by the National Tribal Telecommunications Association and proposed in the Commission's March 23, 2016 rulemaking.⁶ Implementation of a Tribal Broadband Factor within the High Cost Fund will provide and maintain increased High Cost Fund subsidies to support the deployment and maintenance of telecommunications infrastructure in Indian Country. We agree that certain build-out and certification obligations should be adopted as part of the Tribal Broadband Factor to ensure that Rate-of-Return carriers are held accountable for voluntarily receiving Tribal Broadband Factor support.⁷

³ See National Congress of American Indians. *NCAI Reply Comments in the Matter of Connect America Fund, WC Docket No 10-90; ETC Annual Reports and Certifications, WC Docket No. 14-58; and Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92.* June 8, 2016. Available at <http://apps.fcc.gov/ecfs/comment/view?id=60001993159>.

⁴ See Federal Communications Commission. *Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-Docket No. 03-109, WT Docket No. 10-208.* Released Nov. 18, 2011. ¶636 and ¶637, pgs. 206-207. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-16A1.pdf.

⁵ *Id.*

⁶ See Federal Communications Commission. *Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, WC Docket No. 14-58, and CC Docket No 01-92.* March 23, 2016. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-A1.pdf.

⁷ *Id.* ¶ 379, pg.141. "NTTA supports tying build-out obligations to additional support, and proposes specific build-out obligations tied to a sliding scale based on current broadband deployment levels to 'meaningfully improve broadband connectivity on Tribal lands...particularly in areas that

For the past 15 years tribes, tribal telcos, and tribal organizations have built the record at the FCC illustrating the unique geographical and economic challenges affecting telecommunications deployment and maintenance in Indian Country; we recommend that the Commission take concerted action to adopt and implement a Tribal Broadband Factor before the end of this year. Additionally, the Commission should consider how the adoption of a Tribal Broadband Factor in the High Cost Fund could support other universal service programs-such as ensuring affordable access to low-income consumers on tribal lands through the Lifeline program. Access and affordability to communications services should remain a top priority for the FCC, since deployment cannot succeed if adoption is not possible due to unaffordability.

Conclusion

The Fort Belknap Indian Community is grateful for the opportunity to provide input on this important matter. The establishment of a Tribal Broadband Factor is long overdue to address the pervasive Digital Divide in Indian Country. We hope that the FCC will engage and consult with tribes in a proactive manner moving forward on this issue and as technology and services continue to advance. If you have any questions please contact Lorraine B. Billy at (406) 353-8450 or lbrockie@ftbelknap.org and Donald Longknife at (406) 353-8517 or kokedi@ftbelknap.org

Sincerely,



Mark L. Azure
President

xc: FBIC CAO
xc: FBIC Councilman Messerly
xc: Donald Longkife, FBIC IT Specialist

are unserved today.' For instance, it proposes that recipients of TBF that currently have deployed 10/1 Mbps to less than 10 percent of their locations be required to provided 4/1 Mbps to at least 25 percent of their locations within three years, and 10/1 Mbps to at least 10 percent of locations within three years; for those that already have deployed 10/1 Mbps to at least 10 percent but not 25 percent of their locations, they would be required to offer 4/1 Mbps service to 50 percent of their locations and 10/1Mbps service to 25 percent of locations within three years."