

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WT Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Developing a Unified Inter-carrier Compensation Regime.)	CC Docket No. 01-92

**THE NATIONAL TRIBAL TELECOMMUNICATIONS ASSOCIATION
REPLY TO PETITIONS FOR RECONSIDERATION**

I. INTRODUCTION AND SUMMARY

The National Tribal Telecommunications Association (NTTA) provides these reply comments in response to Petitions for Reconsideration filed in regards to the Federal Communications Commission’s March 2016 Rate-of-Return Carrier Universal Service Fund Reform Order.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. 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.

¹ *In the Matter of Connect America Fund, et al.*, WC Docket No. 10-90, et al., Report and Order, Order, and Order on Reconsideration (FCC 16-33), released March 30, 2016 (*RoR Reform Order*)

In these replies, NTTA will address points made in the Petitions for Reconsideration filed and to the comments filed by ITTA. Specifically, both NTCA and WTA request reconsideration of the Commission's budget mechanism, and how that mechanism results in many carriers not being able to certify as to broadband rate comparability.² To this argument, NTTA adds a discussion of how the Tribal Broadband Factor was designed to address this type of problem for RoR carriers serving Tribal areas. In addition, NTTA will offer support for NTCA's request for reconsideration in regards to the operating expense cap.

II. BUDGET SUFFICIENCY

In its Petition, NTCA raises the important point of the sufficiency of the Commission's budget to meet its broadband deployment goals. Furthermore, NTCA raises a very valid concern about the insufficiency of the budget leading to difficulties for many carriers being able to certify that broadband services are being offered at reasonably comparable rates. Due to these concerns, NTCA requests reconsideration of either:

- (1) the insufficient USF budget for RLEC high-cost support as enforced pursuant to the new budget control the Commission has adopted in the Rate-of-Return Reform Order; or
- (2) alternatively, the requirement for RLECs to provide certification that they are providing standalone broadband services at reasonably comparable rates until such time as the budget and other structural modifications to the support mechanism can be more fully considered.³

NTCA is correct – the amount of funding directed to universal broadband service by the FCC is inadequate, especially as it relates to Tribal areas. Furthermore, and as described by NTCA, this inadequate funding is leading to unreasonably comparable rates between rural Tribal areas and the urban areas of the United States – as discussed further below, one NTTA member was unable to certify that broadband rates were reasonably comparable in the annual report filed this year with the Commission. Clearly, in order to meet the Commission's goal of universally available

² While ITA mentions support of this issue in its comments, it offers no further support or opposition to NTCA's position

³ NTCA Petition at 2

broadband service, support must be sufficient to ensure affordable rates. At current budget levels, this is not being done – especially when it comes to rural Tribal areas.

NTTA proposed the Tribal Broadband Factor (TBF) to, in part, address the additional need for universal service support in Tribal areas served by RoR carriers to provide the facilities necessary for reasonably comparable broadband services to all Native Americans.⁴ In addition to the higher costs inherent in serving Tribal areas, NTTA members and other RoR carriers serving these areas are faced with greater percentages of low income subscribers who will find it difficult, if not impossible, to afford vital broadband services.⁵ As stated succinctly by WTA, “unless and until it can provide more high-cost support to enable further reduction of wholesale broadband transmission rates..., the Commission should postpone or suspend the FCC Form 481 broadband rate certification, and announce that it will not penalize entities that cannot meet its retail broadband rate benchmarks or ceilings.”⁶ NTTA adds that the \$25 million in extra funding contemplated by the TBF is designed to, in part, address this issue. Moreover, it will not be sufficient to merely postpone or suspend the broadband reasonably comparable rate certification requirement for carriers serving Tribal areas – the Commission must act soon to provide the support necessary to ensure broadband capable facilities are deployed in these areas that allow for services being provided at affordable rates.

Finally, at one NTTA member was unable to certify on this year’s Form 481 that broadband service is being provided at reasonably comparable rates. Mescalero Apache Telecom, Inc. (MATI) stated the following in regards to the broadband rate comparability certification in its 2016 Form 481:

“While MATI offers, or will offer upon reasonable request, fixed wireline retail residential broadband internet access service meeting the Commission’s requirements (10/1 mbps, 150 gb of monthly capacity), it does not and cannot do so at rates at or below the relevant benchmarks. MATI’s retail rate for residential 10/1 unlimited broadband internet access service is \$99.99 per month, while the benchmark rate according to the 2016 Public Notice is \$75.20...MATI’s rate is higher due to many factors, including the high cost, remote tribal areas that it serves, the relatively high middle mile costs necessary to

⁴ See NTTA Ex Parte presentation, filed July 13, 2016 in WC Docket No. 10-90, for latest information

⁵ NTTA advocated for an increase in the Enhanced Tribal Lifeline credit in light of the addition of broadband to the list of supported services. See Comments of NTTA, filed August 31, 2015 in WC Docket No. 11-42, at 6-9

⁶ WTA Petition for Reconsideration at 23

connect MATI's customers to the Internet, and the sparse population in its tribal serving area."

As WTA stated, the Commission's support mechanism for broadband relates only to the wholesale broadband transmission element, and does not take into account middle mile costs, the federal universal service charge, or other costs necessary to provide the final broadband internet access service to the customer.⁷ Given these additional costs, the Commission must be certain that any budget mechanism adopted accounts for this and allows for RoR carriers to actually provide the retail service at or below the reasonable comparability benchmark.

III. OPERATING EXPENSE LIMITATIONS

The Commission, in the RoR Reform Order, adopted a new mechanism designed to cap certain operating expenses for recovery in federal USF mechanisms. NTCA requests that the Commission reconsider its decision and adopt an inflationary factor in order to avoid a result where carriers have operating expenses capped in subsequent years through no fault of their own.⁸ NTTA supports NTCA's request for reconsideration, but continues to advocate for Tribal area-specific treatment as discussed below.

In addition to supporting NTCA's call for an inflationary factor to be applied to the operating expense capping mechanism, NTTA notes that it has advocated for waiving the operating expense cap for carriers with a majority of customers located in a Tribal area.⁹ NTTA continues to believe that this waiver is the best way to address the shortcomings of the Commission's operating expense capping mechanism, and urges the Commission to adopt this waiver as soon as possible.

IV. CONCLUSION

NTTA echoes statements made in the Petitions for Reconsideration commending the Commission for its actions to help ensure the universal availability of broadband, especially

⁷ *Id.*

⁸ NTCA Petition for Reconsideration at 20

⁹ See NTTA July 13, 2016 Ex Parte Presentation.

standalone broadband, service in all areas of the United States, including rural and Tribal areas served by RoR regulated LECs. However, given the historical and continuing gap between broadband availability in rural Tribal areas as compared to urban areas of the country, NTTA urges the Commission to take immediate steps to improve the mechanisms adopted in the RoR Reform Order and grant the requests made in the Petitions for Reconsideration filed by NTCA and WTA. In addition, NTTA requests the Commission act soon on the outstanding issues related to NTTA positions on the Tribal Broadband Fund and waiving the operating expense caps for carriers serving Tribal areas.

Respectfully Submitted,

Godfrey Enjady
President
National Tribal Telecommunications Association

August 25, 2016