

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands)	WT Docket No. 11-40
)	
Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures)	MB Docket No. 09-52
)	

**Comments of Gila River Telecommunications, Inc. to
#ConnectingCommunities**

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I. Introduction

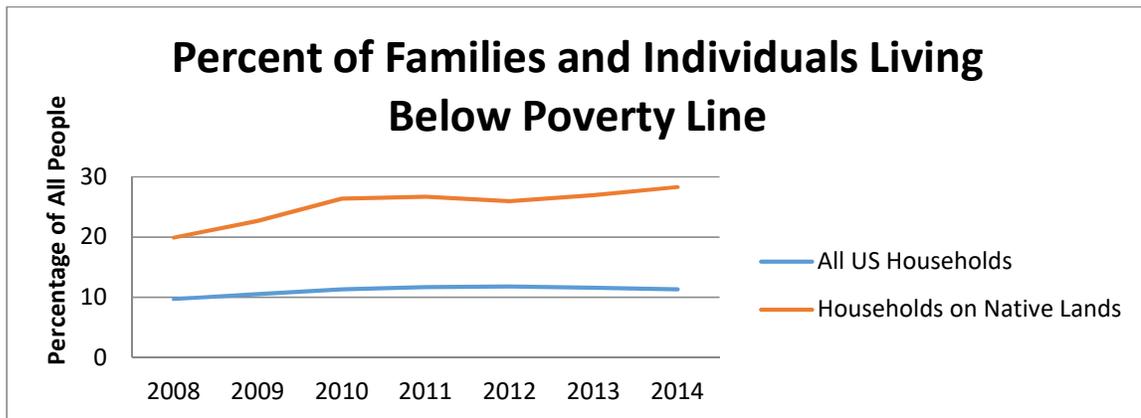
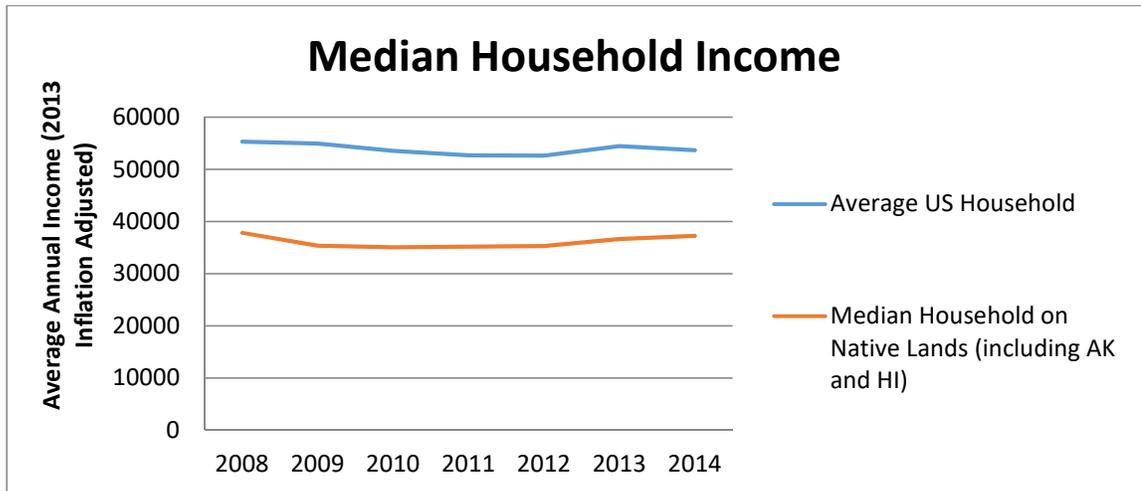
Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these comments as part of Commissioner Clyburn’s Connecting Communities tour.¹ As noted by the Commissioner in a blog post following her visit to New Mexico in August, “access to robust, affordable advanced telecommunications services, ought to be available to everyone — no matter who they are, no matter where they live. That is not only the core tenet of the #ConnectingCommunities tour I launched in April, it is one of the ‘prime directives’ of the Telecommunications Act of 1996.” GRTI could not agree more with that sentiment. As a telecommunications company charged with serving the tribal members living on the Gila River Indian Community, GRTI has worked over the last 27 years to achieve that goal. GRTI greatly appreciates the Commissioner’s efforts to highlight these issues and for her time visiting with GRTI to discuss these important matters in July.

The full gamut of communications services, including wireline and wireless broadband, broadcast and radio, are critical to Indian Country as they can provide economic, educational and healthcare benefits and opportunities; as well as offering an avenue for maintaining and preserving tribal heritage and community bonds. As demonstrated in more detail below, ensuring access and affordability of broadband service is of paramount importance for tribal communities to realize their full potential and the Commission’s statutorily-mandated charge to ensure access for all Americans affords the Commission the ability to make that a reality. Broadcast services are also integral components that offer not only access to a broader worldview, but also a means of developing local programming that is responsive to tribal needs and helps preserve the history and stories of tribal communities. Thinking of communications services in this way, as an interrelated collection of services that have the power to strengthen tribal communities, should guide the Commission’s policymaking.

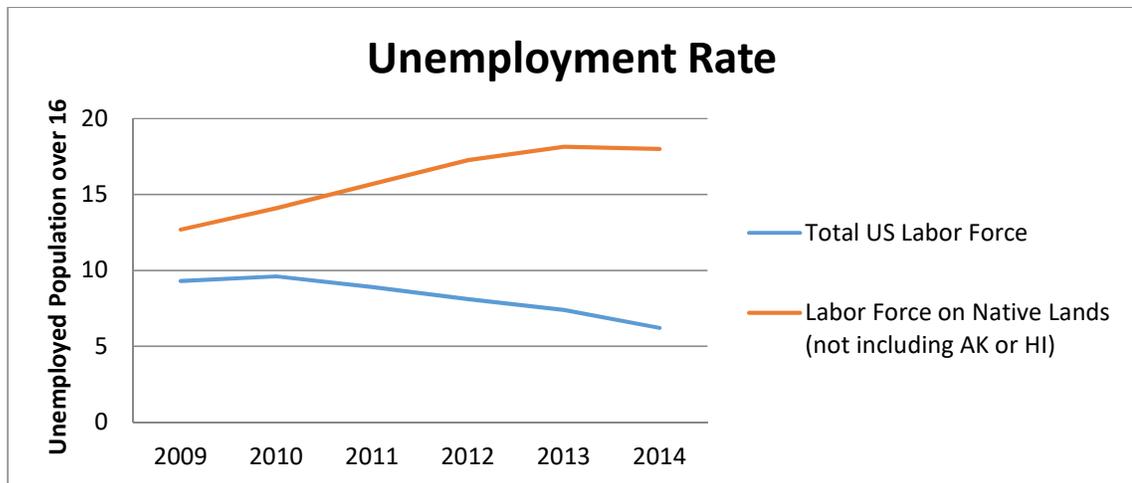
¹ FCC Commissioner Clyburn Announces Launch of Her #ConnectingCommunities Tour, available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-338868A1.pdf (Apr. 14, 2016).

II. Overview of Economic Circumstances in Tribal Communities

Economic circumstances on Tribal lands remain challenging. As the charts below demonstrate, average incomes remain extremely low as compared to the U.S. population in general, while poverty rates and unemployment rates remain high.² In fact, poverty rates on Tribal lands are increasing and is currently more than 27 percent, while the numbers for all US households is decreasing, and as of 2014 was at a rate of 15 percent. Similarly, the most recent data on tribal unemployment rates, from 2014, shows unemployment for residents of tribal lands increasing to over 18 percent, while the national average fell to 6.2 percent in that year. This disproportion between Tribal lands and the general population is even greater than the charts illustrate since the population on Tribal lands is significantly smaller in comparison to the national average.



² Data based on census information, which can be found at <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>.



These factors contribute to the unaffordability of communications services for many living on Tribal lands. It also complicates the economics of providing communications services on Tribal lands. As the General Accountability Office noted in its recent report, economic conditions, coupled with the unique costs associated with deploying broadband, often make tribal communities uneconomic to serve.³ The Commission’s recent Broadband Progress Report verified the GAO’s conclusion that Tribal lands remain unserved. In its *2016 Broadband Progress Report*, the Commission found that Tribal lands are the least-served areas in the country, with 63 percent of residents of rural Tribal lands lacking access to broadband.⁴

A similar circumstance can be found in broadcasting where access to media licenses remains low for Tribal entities. While the first Native-owned radio station in the United States was started in Alaska in 1971, as of 2013 there were only seventy Native-owned stations, representing approximately 10 percent of federally recognized tribes.⁵ As with broadband

³ U.S. Gen. Accountability Off., GAO-16-222, *Telecommunications: Additional Coordination and Performance Measurements Needed for High-Speed Internet Access Programs on Tribal Lands* at 10 (Feb. 3, 2016) (“The interrelated barriers of rugged terrain and rural location characteristic of many tribal lands, as well as tribal members’ limited ability to pay for high-speed Internet service were tribes’ and private providers’ most commonly cited impediments to improvements in high-speed Internet service.”).

⁴ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All et al.*; GC Docket No. 15-19; 2016 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment, 31 FCC Rcd. 699, 732 para. 80 (2016) (*2016 Broadband Progress Report*).

⁵ Peggy Berryhill, Nan Rubin, and Fatima Mahdi; *Native Radio*, August 2013 <http://nmai.si.edu/explore/film-media/native-media-topics/native-radio/>.

service, tribal communities are underserved with broadcast opportunities in part because these areas are uneconomic to serve.

The common thread -- being underserved by communications services, is one that the Commission is uniquely empowered by Congress to address. As explained in the next two sections, the Commission should seek to eliminate these deficiencies through targeted policies that will ensure adequate funding for: the deployment of wireline and wireless broadband networks (and the transport network that must accompany them) and to address affordability of broadband service. The Commission should also adopt incentive mechanisms, like the Tribal Radio Priority, to promote greater access to broadcast television and radio opportunities. Only through these policy changes can the Commission help address the missed opportunities that lack of access imposes on people living in their Tribal communities.

III. Tribal Broadband Deployment and Affordability Must Be Supported Through the Commission's Universal Service Fund

Wireline Broadband Deployment. GRTI filed comments with the Commission in its proceeding seeking comment on reforms to the rate-of-return universal service mechanism.⁶ As part of that inquiry, the Commission sought comment on whether the operating and capital expenses reforms adopted in the underlying rate-of-return order should be modified to take into account the higher costs associated with providing broadband service on Tribal lands. In its comments, GRTI noted that the findings of the *2016 Broadband Progress Report* provide compelling evidence of the need for further universal service support to expand broadband access on Tribal lands.⁷ The data shows the level and availability of fixed broadband access across America; while the overall number of Americans lacking access to fixed broadband was reduced 40 percent between 2013 and 2014, the number of Americans living on Tribal lands in rural areas saw only a 20 percent reduction. Put another way, residents of Tribal lands saw only half the improvement.⁸ Even more critically, a full 41 percent of Americans living on Tribal lands in

⁶ *In re Connect America Fund*, WC Docket Nos. 10-90, 14-58; CC Docket Nos. 01-92; Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (rel. Mar. 30, 2016) (*Tribal Support Further Notice*).

⁷ Comments of Gila River Telecommunications, Inc., available at <https://ecfsapi.fcc.gov/file/60001841635.pdf> (*GRTI Comments on Deployment*).

⁸ *Id.* at 1.

rural areas lack access to fixed 10/1Mbps broadband and 68 percent lack access to 25/3 Mbps broadband.⁹

As a number of carriers serving Tribal lands demonstrated in filings before the Commission, uniquely high costs associated with building and maintaining broadband networks delay or prevent deployment on Tribal lands.¹⁰ The Schools, Health and Libraries Broadband Coalition (“SHLBC”), recently filed a report further demonstrating the difference in cost of providing broadband infrastructure between urban, rural and Tribal areas. The study found that the cost of building fiber to urban, “metro” area schools ranges from \$40,000 to \$104,000, whereas the same fiber facility built to a school in the plains or desert area of the country would cost between \$324,000 to \$596,000 (with the higher end being desert areas).¹¹ The SHLBC report concludes that the Commission should “follow[] through on the National Broadband Plan’s recommendation to establish a Tribal Broadband Fund to promote deployment and adoption in tribal areas.”¹²

GRTI and others have urged the Commission to take immediate action to modify operating expense (opex) limitations and its capital budget mechanism adopted as part of the *Rate of Return Reform Order* to ensure that support for carriers that primarily serve Tribal lands is reflective of the unique costs associated with providing broadband service to those areas.¹³ GRTI urged the Commission to either remove the opex limitations for those carriers whose study areas are primarily (50 percent or greater) comprised of locations on Tribal lands or modify the formula for calculating those opex limits to allow for up to 2.5 standard deviations, as opposed to 1.5 as adopted in the underlying Order.¹⁴ As GRTI documented in its comments, absent reform, GRTI faces a disallowance of nearly \$1.26 million annually in opex.¹⁵ Higher opex for carriers

⁹ 2016 Broadband Progress Report, 31 FCC Rcd. 699, 732 para. 80.

¹⁰ Sacred Wind Communications, Inc. comment at 6-8, available at <https://ecfsapi.fcc.gov/file/60001841505.pdf>; NTTA comments at 7-14, available at <https://ecfsapi.fcc.gov/file/60001841618.pdf>; GRTI comments at 7-9, available at <https://ecfsapi.fcc.gov/file/60001841634.pdf>.

¹¹ Connecting Anchor Institutions: A Broadband Action Plan, Schools, Health, and Libraries Broadband Coalition, https://ecfsapi.fcc.gov/file/1081945436307/Broadband%20Action%20Plan_SHLB.pdf at 89 (July 2016).

¹² *Id.*

¹³ *GRTI Comments on Deployment* at 7-11.

¹⁴ *Id.* at 11.

¹⁵ *Id.*

serving Tribal lands should not come as a surprise to the Commission as the record developed at the Commission over the last 16 years demonstrates that these areas are more costly to serve and higher operating expenses would reflect those higher costs.¹⁶

GRTI believes that the reforms it and others have advocated for over the last year and a half and advocated for in conjunction with the *Tribal Support FNPRM* should be resolved by the Commission to address funding shortfalls created by the *Rate of Return Order*. The Commission has committed to acting on the *Tribal Support FNPRM* by the end of the year and GRTI will continue to work with the Commission to ensure the Commission has the information it needs to make its decision.¹⁷ Only once those reforms are resolved should the Commission look at additional steps that may be necessary to further promote broadband deployment on Tribal lands.

Wireless Broadband Deployment. As the Commission stated in its *2016 Broadband Progress Report*, wireless broadband is not a substitute for fixed broadband due to technical characteristics of the service (such as capacity and latency) and differences in the way the service is offered to consumers (such as data caps and overage charges).¹⁸ Like other Americans, though, Tribal residents are increasingly using mobile wireless services to maintain connectivity when they are away from home. However, mobile broadband service on Tribal lands lags behind for many of the same reasons as it does for a wireline network. Building broadband facilities to base stations incurs the same higher costs as those associated with building the wireline network. Approvals for these facilities go through the same clearance processes outlined in our comments to the *Tribal Support FNPRM*.¹⁹ Mobile networks, after all, are not completely wireless, instead they rely on wireline facilities for backhaul to transmit the data received by consumers at the base station of the tower to the wireline network.

¹⁶ *Id.* at 2-6.

¹⁷ *Tribal Support Further Notice* at n. 362.

¹⁸ *2016 Broadband Progress Report*, 31 FCC Rcd. at 712, para. 31 (“Critically, fixed and mobile services generally have distinct pricing models, providing consumers with very different levels of data/capacity, which, in combination with the differences in capability discussed above, lead to significant differences in the ways that most consumers use fixed and mobile broadband. Collectively, these differences indicate that fixed and mobile broadband currently serve different needs, and are not adequate substitutes for one another. This finding is also strongly supported by the preferences and purchasing decisions of American consumers, who overwhelmingly adopt both services when they have the means.”).

¹⁹ *GRTI Comments on Deployment* at 7-8.

In addition to the higher costs associated with deploying on Tribal lands, another obstacle to greater wireless deployment is a result of the Commission’s buildout obligations (also known as “construction requirements”). Quite often the buildout obligations that are associated with the spectrum license can be met by mobile carriers without serving Tribal lands within their license area. Because spectrum licensees are generally granted an exclusive right to use, being able to meet buildout obligations while leaving the Tribal lands unserved forecloses opportunities for Tribal entities to obtain rights to that spectrum directly from the Commission.

In 2011, the Commission initiated a proceeding to explore policy options that could be used to promote greater mobile deployment on Tribal lands.²⁰ In response to that inquiry, a number of commenters, including GRTI, offered support for proposals that would promote access to spectrum for Tribal entities. For example, the National Congress of American Indians (NCAI) adopted a resolution urging the Commission to improve access to spectrum by establishing a structure for secondary market negotiations between spectrum licensees and Tribal nations.²¹ GRTI and the Gila River Indian Community (GRIC) filed joint comments in support of many of the proposals in the *Spectrum over Tribal Lands NPRM*, including the secondary market proposal and a “build or divest” proposal, which would require a mobile providers that has satisfied the applicable construction requirements for the license but left the Tribal land areas unserved or underserved to indicate whether it would agree (a) to extend coverage to the Tribal land(s), or (b) relinquish its authorization for the unserved or underserved Tribal land within the geographic area of its license.²²

Unfortunately, the proposals put forward by the Commission in the *Spectrum over Tribal Lands NPRM* did not result in changes in Commission policy. GRTI would encourage the Commission to revisit this proceeding and consider the proposals as viable ways to promote mobile broadband availability on Tribal lands.

²⁰ *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, WT Docket No. 11-40, Notice of Proposed Rulemaking, 26 FCC Rcd. 2623 (2011) (*Spectrum over Tribal Lands NPRM*).

²¹ Urging the Federal Communications Commission to Improve Access to Spectrum Licenses for Tribal Nations; National Congress of American Indians, Resolution #SD-15-037, available at http://www.ncai.org/attachments/Resolution_BUFFQLwyvmqQzhoauWvqvPMTLKSQSkorfkLCFfkAvjEQvTZJcmE_SD-15-037.pdf.

²² GRTI and GRIC comments, WT Docket No. 11-40, at 8-10, available at <https://ecfsapi.fcc.gov/file/7520925453.pdf>.

Affordability. The Commission’s Link Up and Lifeline programs are critical in making communications services affordable for low-income families living on Tribal lands. Earlier this year, the Commission expanded the Lifeline program to include support for broadband.²³ As the Commission stated in the *Broadband Lifeline Order*, “accessing the Internet has become a prerequisite to full and meaningful participation in society.”²⁴ Importantly, the Commission reaffirmed that the unique costs associated with serving Tribal lands and the inability of a significant portions of residents on Tribal lands to afford telecommunications services warranted continuing the enhanced Lifeline and Link-Up programs that help Tribal residents afford service.

For those families that are unable to afford broadband in their homes, their children miss out on the opportunities to do research on homework or even just complete their homework; parents miss out on the opportunity to apply for many of the jobs that are made available through an online application process. As GRTI noted in comments to the *2015 Lifeline Second Further Notice*, Lifeline and Link-Up have unequivocally brought benefits to residents of Tribal lands and the programs remain necessary to ensure residents of tribal lands remain connected.²⁵ Lifeline funding is not only critical for making communications service affordable, its presence in a low income family’s budget has a broader impact. GRTI remains concerned that the level of support provided under Lifeline is too low,²⁶ which was not increased to account for the higher cost associated with broadband service, and hopes to work with the Commission to find a way to increase the level of support for families subscribing to broadband service under the program.

Another aspect of affordability relates to the affordability of providing the service to all consumers in an area. In GRTI’s case, the average loop cost to provide service amounts to \$2879 per loop excluding the cost of transport. The Commission’s high-cost program is intended to help cover a portion of these costs to ensure that service remains affordable to

²³ *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (*2015 Lifeline FNPRM*).

²⁴ *Lifeline Link-Up Reform and Modernization, et al.*, Third Report and Order, and Order on Reconsideration, 31 FCC Rcd. 3692 (Apr. 27, 2016) (*2016 Lifeline Modernization Order*).

²⁵ GRTI Comments on Lifeline proceeding, available at <https://ecfsapi.fcc.gov/file/60001223951.pdf> (*GRTI Lifeline Comments*).

²⁶ Letter from Gregory Guice, Counsel for Gila River Telecommunications, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 11-42, available at <https://ecfsapi.fcc.gov/file/60001388172.pdf> (Dec. 17, 2015).

consumers in high-cost areas.²⁷ When the Commission takes actions that reduce funding for carriers serving these areas, GRTI and other carriers must make it up through either cost-cutting measures or in the rates charged to its customers. As GRTI has demonstrated in comments filed with the Commission, additional cost-cutting measures are not available to it and therefore the loss of support that is resulting from the Commission's decision in both the *Rate of Return Reform Order* and as a consequence of the National Average Cost Per Loop (NACPL) decision from 2014, will necessitate a rate increase of approximately \$30 per month, resulting in a monthly rate of \$48, which will make service unaffordable for many of the residents of the GRIC.²⁸ Other carriers serving Tribal lands face similar cuts and the Commission must take into account the effects of reductions in its high-cost funding mechanisms on the overall affordability of the service carriers are serving to their communities.

As the above illustrates, support for both access and affordability are critical to ensure that carriers serving Tribal lands are able to deploy the facilities across their service area and to offer service at rates that residents of Tribal lands can afford – a point that was confirmed by the Commission's continuation of enhanced Lifeline and Link-Up. The Commission is charged by Congress with ensuring all Americans have access to affordable broadband service. In the coming months, the Commission has an opportunity to take a significant step in addressing the accessibility gap. As noted above, there are a couple of reforms the Commission could adopt regarding operating expense limitations and additional funding for deployment that will help provide carriers serving Tribal lands funding to undertake the projects needed to deploy broadband to Tribal lands. The Commission has committed to acting on those proposals by the end of this year. GRTI is hopeful that Commissioner Clyburn and her colleagues will ensure that action is taken.

IV. Policies that Promote Broadcast Opportunities for Tribal Areas Should be Expanded

As mentioned above, Tribal access to broadcast spectrum is critical to preserving Tribal heritage and culture as well as assisting in responding to community-wide emergencies.

²⁷ 47 U.S.C. § 254.

²⁸ GRTI comments, WC Docket No. 10-90, at 10, available at <https://ecfsapi.fcc.gov/file/60001841634.pdf>.

Unfortunately, access to broadcast spectrum is lacking. In a 2013 report on the *Information Needs of Communities*, the Commission’s Office of Strategic Plans and Policy stated:

“For the country’s almost five million Native Americans, geography has often hindered the delivery of mass media. Most Tribal lands are rural, and most broadcasters prefer to operate in densely populated areas, which are easier to monetize through advertising. Additionally, spectrum scarcity can limit the opportunities for new radio service in these areas. The Commission recently concluded that Federally Administered Tribal Areas were insufficiently served by radio broadcast facilities. The order explains that the nation’s 563 federally recognized American tribes are served by approximately 41 full-power noncommercial educational FM radio stations, which are licensed to federally recognized tribes and affiliated groups. (Some 14,547 radio stations are licensed in the United States.)” (internal citations omitted)²⁹

While not a full power broadcast station, the Gila River Broadcasting Corporation (GRBC) does offer residents both English and O’odham language programming over its Low Power Television station operations, which is the first in Indian Country. It was established by the Gila River Indian Community in recognition of the need for culturally competent and respectful programming that was not available for their community members through other sources. GRBC began broadcasting low-power television station in 2015 and continues to strive to offer its residents more cultural programming that preserves their stories and history.

Beyond that mission, the GRBC also offers residents of the Gila River Indian Community an opportunity to learn skills in broadcast and business that can help advance their careers. GRBC has a small team of technicians and programmers, of which 100 percent are Community Members. These jobs would not be available but for GRBC’s license. Making opportunities like these available are one of the many benefits that can inure to Tribal communities through greater access to broadcast spectrum.

²⁹ *Information Needs of Communities* at 251 (available at https://transition.fcc.gov/osp/inc-report/The_Information_Needs_of_Communities.pdf).

The Commission's Tribal Priority program, established in 2010, was designed to expand the number of radio stations owned by American Indian Tribes broadcasting to Tribal lands.³⁰ The Tribal Priority allows tribes or Tribally-owned or controlled entities to more easily obtain broadcast radio licenses in both the AM and FM bands. By providing a streamlined access to radio services, the Tribal Priority fosters localism and diversity of ownership, two goals Congress has charged the Commission with promoting in the broadcast market.

With approximately 70 broadcast radio stations licensed to Tribes or affiliated groups, these opportunities are lacking and the Commission should take additional steps to promote broadcast ownership in radio and television.

V. Conclusion

The power of today's communications services to fundamentally change the trajectory of a person's life must be extended to Indian Country. GRTI submits these comments to assist Commissioner Clyburn as she looks at ways to help promote Connected Communities. Only through targeted, specific programs designed to promote greater access to all communications services on Tribal lands can we hope to close what has been called the "connectivity desert." GRTI looks forward to continued consultation and engagement with the Commission as it moves to address these issues.

Respectfully submitted,

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³⁰ *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order and Further Notice of Proposed Rule Making, 25 FCC Rcd 1583, 1584-85 (2010).