



*Ex Parte Communication, Filed via ECFS*

December 5, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Re: *In the Matter of Connect America Fund, et. al.*, WC Docket No. 10-90, National Tribal Telecommunications Association comments on Draft Rate-of-Return Carrier USF Budget Order

Dear Ms. Dortch:

The National Tribal Telecommunications Association (NTTA) applauds and appreciates the steps the Federal Communications Commission (Commission) is poised to take to assist in the deployment of universal broadband service in many rural areas of the United States as reflected in the *draft* rate-of-return (RoR) carrier universal service fund budget order (*Draft Order*). The increased budget and the shift in focus from 10/1 Mbps broadband service to 25/3 Mbps are issues fully supported by NTTA now and in the past.

In paragraph 52 of the *Draft Order*, the Commission rejects the Tribal Broadband Factor proposal advocated by NTTA and Gila River Telecommunications, Inc. (GRTI) and instead adopts its own "Tribal Broadband Factor" (FCC-TBF) that revises the Alternative Connect America Cost Model (ACAM) by reducing the monthly revenues assumed to be received by end users. It is NTTA's understanding that the FCC-TBF will be available to future ACAM recipients serving Tribal areas, and will only be applied to the new offer of support discussed in the Order and called "ACAM II." Most importantly, the FCC-TBF will reduce the per-customer high cost threshold of \$52.50 by 25% to \$39.38 (*Order*, ¶50). This is done, in the Commission's words, to address "the lower expected end-user revenues in rural, Tribal areas..."

While NTTA sincerely appreciates the Commission's attention to rural Tribal areas of the country through revisions to the upcoming ACAM II offers of support, the fact remains that a similar mechanism addressing Tribal areas served by Legacy (High Cost Loop Support and Connect America Fund Broadband Loop Support) program recipients is not being considered. The NTTA-TBF the Commission rejects in the *Draft Order* was designed to address the need for additional support for Legacy carriers serving Tribal areas. NTTA's TBF was established and advocated for well in advance of the Commission's March 30, 2016 Further Notice of Proposed Rulemaking (*see e.g., June 19, 2015, November 18, 2015, and December 4, 2015 Ex Parte Communications*). In the 2016 FNPRM, the Commission requested comment on the NTTA-TBF, stating "we recognize the distinct challenges in bringing communications service to Tribal lands and seek comment on how best to achieve broadband deployment on Tribal lands commensurate with that in other areas." (*FNPRM, WC Docket No. 10-90, rel. 3/30/2016 at ¶374*). To NTTA's knowledge, no party opposed the NTTA-TBF and multiple parties supported it (*see e.g., May 2016 Comments of Alexicon, NTCA, TCA, GRTI, The Affiliated Tribes of Northwest Indians, and Sacred Wind Communications*).

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With the rejection of the NTTA-TBF, there is unfortunately no mechanism to address the same issue discussed by the Commission in relation to the FCC-TBF, nor is there a mechanism to address additional support needs for current ACAM support recipients. As such, there appears to be an inconsistency in the way the Commission treats the additional support needs in Tribal areas between future ACAM II support recipients and all other carriers serving rural Tribal areas.

NTTA notes that in the *Draft Order* the Commission states “*Providing additional legacy support, without any particular correlation to circumstances faced by carriers serving Tribal lands, would not be an effective use of universal service resources in support of broadband deployment (Order, ¶52).*” While NTTA appreciates the nature of the Commission’s concern related to limited resources, NTTA also suggests the record overwhelmingly supports, recognizes, and provides no opposition to the necessity of Tribal lands needing additional universal support as these areas are clearly the most underserved and exhibit cost characteristics that are unique to those areas.

To address the clear inconsistency inherent in the *Draft Order* for Native Americans living in areas served by future ACAM support recipients and those living in areas served by all other RoR carriers, the Commission should consider the following. First, to properly recognize the principle of the FCC-TBF regarding the “lower expected end-user revenues in rural, Tribal areas” in areas served by non-ACAM II support recipients, the Commission should reduce the end-user revenues implicit in the calculation of CAF BLS. As outlined in NTTA’s October 25, 2018 Ex Parte filing, this can be implemented by reducing the \$42 per month per line funding threshold (*see 47 CFR §54.901(2), Imputed Consumer Broadband-only Revenues*) by 25% to \$31.50. Second, the same principal can be recognized by revising the HCLS algorithm using a similar 25% factor (*see NTTA October 25 Ex Parte filing at p. 5*). Third, current ACAM recipients should receive the same treatment as outline in the FCC-TBF in regard to the 25% reduction of the monthly per-line high cost threshold. These minor changes have the added benefit of being a natural outgrowth of what is already on the record in this proceeding.

Given the pending adoption of the FCC-TBF and its addressing of the sufficiency of support in rural Tribal areas, but only for future ACAM II support recipients, NTTA urges the Commission to consider above-described proposals for Legacy support and current ACAM support recipients. To adopt one, the FCC-TBF, and not another, NTTA’s proposals as outlined above and in the October 25, 2018 Ex Parte filing, would be inconsistent and would leave many Native Americans living in rural Tribal areas at a disadvantage, all because they, through no fault of their own, live in an area served by a Legacy support recipient RoR carrier.

Sincerely,

Godfrey Enjady  
President