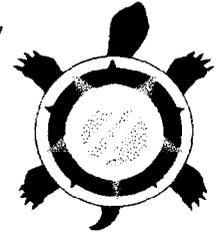


Docket #99-11

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NAtec, Inc.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**"Overcoming Obstacles to Telephone Service  
for Indians on Reservations"**

Testimony to the  
Federal Communication Commission

BO Docket No. 99-11

Remarks by

Madonna Peltier Yawakie  
President  
NAtec, Inc.

March 23, 1999

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Remarks by Madonna Peltier Yawakie  
March 23, 1999

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### **Tribal Telecommunication Overview**

Great disparity exists for Indian Country when comparing telephone penetration rates to the rest of America. Current statistics on telephone penetration rates (number of homes with telephones) in Indian Country range from 25% to 95%. Tribes with higher rates correlate with those five tribes that own, operate, and provide communication services to their respective communities. Telephone penetration rates for the rest of the nation are approximately 94%. The sentiment that tribal communities face the same issues and concerns as the rest of rural America falls short in the area of telecommunication usage. In most cases, Tribal Nations are located in the most rural of rural America, and the need for basic telephone service can provide a lifeline to services that otherwise may not be attainable in a time of need.

There are a number of reasons that contribute to low telephone penetration rates in Indian Country. High unemployment and concentrated poverty are major contributors to these statistics. Other major contributors include the perceptions of the service providers that Native Americans don't use telephones. Another perception is that Native Americans are communal in the use of telephones. The rationale behind this is that families live in close proximity to each other and tend to share the use of a single telephone. A more obvious reason may be the high cost for phone service for many people living in Indian Country. The cost for telephone hook-ups can range by as much as \$200 to \$3,000, or more for basic telephone service depending upon what type of service provider your community has. Affordability issues arise that lead to Indian people viewing telephone service as a luxury, rather than a basic necessity.

A number of factors impact the need for Tribal Nations to begin to develop telecommunication strategic plans that address the issues of low telephone penetration rates. These include the economic development that is occurring throughout Indian Country. At the base of this development is the need for telephone utility improvements. Private Sector and federal agencies that invest in Indian Country tend to view each of their objectives from a single perspective. In the area of telecommunications this can mean that improved services will be provided, but only to those facilities that are currently being constructed or expanded. Telecom service providers tend to "cherry pick" tribal economic expansion areas without considering the total tribal land area, including trust land.

As the Information Age begins to play a greater role in tribal communities, the need for improved and affordable communication services is becoming more important. Tribal telecom ownership has enabled long term infrastructure investment, creation of jobs for tribal members, and provides the opportunity to build a base for economic and business development through the use of a sound telecommunication infrastructure.

Remarks by Madonna Peltier Yawakie  
March 23, 1999

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### **The Role of the USDA/Rural Utilities Service in Rural Telecommunication Development**

With over \$11 Billion in approved Telephone Loan Program financing for the improvement and expansion of telecommunication services across the United States and its territories, RUS has been building the foundation for the information super-highway for nearly 50 years. When the RUS telecommunication loan program began in 1949, only about 39% of the farms and rural residents were receiving telephone service of any kind. Since 1993, RUS' Distance Learning and Medical Link Grant Program has provided over \$52 Million in funding 192 projects in 41 states and one U.S. territory. RUS uses the National School Lunch Program as an indicator of financial distress and to categorize applicants into one of their three financing options. This is the same criterion used by the Federal Communications Commission for discounts to schools and libraries for telecommunications service.

RUS Loan Administrators know that the telephone penetration rates for Indian tribes are below national standards. According to an Acting Assistant Administrator of the RUS Telephone Loan Program, "The service rates in American Indian communities are a disgrace to the national telecommunications system, and it is our job to do something about that". To date the USDA/Rural Utilities Service (RUS), Telephone Loan Program has five American Indian Tribe borrowers, out of a total of 900 small phone companies that they have worked with. The statistics provided to the RUS as a basis for lending to each of their five tribal borrowers are as follows:

<b>Borrower</b>	<b>Pre-Loan Service Rate</b>	<b>Post-Loan Service Rate</b>
Tohono O'odham	13%	95%
Gila River	44%	54%
San Carlos	25%	New Loan
Fort Mojave	30%	65%
Cheyenne River	----	75%

The number of customers served by these tribally owned communication companies has grown since they acquired ownership. The number of access lines that each of these companies has ranges from approximately 400 to 3,000 and their growth is continuing. The benefits that these companies have provided to their communities have extended beyond tribal ownership. They offer a long term sustainable business, employment opportunities for tribal members, improved telephone service, increased business opportunities, and the creation of a skilled telecommunication workforce.

Remarks by Madonna Peltier Yawakie  
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As of December of 1994, 73 RUS borrowers provided telephone service to 42,961 American Indian Subscribers. One of the most important elements to the RUS Loan Process is the Area Coverage Survey (ACS) requirement that must be completed by RUS borrowers. This process requires a comprehensive assessment of the proposed service area that includes housing, businesses, healthcare, education, and governmental institutions. Once this assessment is completed, the cost to design and construct the network is included in the loan for the proposed service area. Thus, the RUS process enables the initial cost of network construction to be born by the service provider rather than the customer.

### **Federal Communications Commission**

As a result of the Telecommunication Act of 1996, Universal Service support programs were authorized by Congress, and designed by the Federal Communications Commission. New programs include the Schools and Libraries Corporation, and the Rural Healthcare Corporation, which provide financial support for telecommunication service access to rural and high cost service areas. The Universal Service – High Cost Program provides support to companies that are serving high-cost areas, or low-income subscribers. Tribal Nations are high cost service areas, and have low-income subscribers.

*Schools and Libraries Corporation* – Program funding is obtained from contributions by telecommunications companies and is also known as the E-Rate. The E-Rate provides discounts of 20% to 90% on the cost of telecommunication services, which are paid directly to the companies that provide the services. Many schools that serve Native American populations, whether they are BIA, Public or Tribal schools are either in the planning or implementation stages of incorporating Internet access and distance learning into the school curriculum.

*Rural Healthcare Corporation* – Program funding makes telecommunication services affordable for rural health care providers. Indian Health Service facilities provide primary health care to rural American Indians. Indian Health Service hospitals and clinics have incorporated communication based delivery of health care services and administration, through the use of private networks and the Internet.

*Universal Service – High Cost Programs* - This funding is used to support services to customers in high cost service areas. The program includes Universal Service Funds and Lifeline Assistance which is paid to the telecommunication company providing service(s) to provide affordable service to their customer base. Sixty five percent (65%) of the revenues for rural LECs is accounted for by toll charges, access charges, and Universal

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Service Support. Access to these resources for tribal telecom development would contribute to increased and improved service levels in Indian Country.

**Telecommunications Technology & Native Americans, OTA Report, 1995**

In the 1995 report "Telecommunications Technology and Native Americans", completed by the Office of Technology Assessment, U.S. Congress, select findings that support tribal telecom service level improvements include the following:

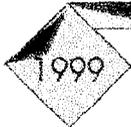
1. **Integrated Infrastructure Development** by the various entities of tribal communities to create economies of scale in purchasing power, and to warrant investment from local telco service providers.
2. **Native Entrepreneurial Activity** that enables the development of local expertise and leadership in telecommunications.
3. **Interagency Strategy and Funding** that provides direction and coordination of tribal telecom objectives.
4. **Telecommunications Policy**
  - a. **Sovereignty and self-determination** suggested by legal precedents for those tribes wishing to assume some degree of telecommunication authority.
  - b. Access to **Universal Service Funds** that cross subsidize low-density, high-cost rural areas with revenues from the high-volume, high-profit metropolitan areas and interstate routes.
  - c. **Strategic Partnerships** between tribes, villages, and communities and their telecom providers that create the incentive for community investment or employment opportunities for community members.

These findings have been identified and are yet to be formally or legislatively implemented. In addition to the above findings the BIA must address existing Right of Way and Easement policies that hinder tribal infrastructure investment. To increase and expand tribal telecommunication policy, the FCC should consider that Tribal Nation(s) and any adjoining trust land be considered as a cost study area to assure that Tribal Nations begin to access Universal Service supports.

**IMPROVING TRIBAL NATION  
TELECOMMUNICATION SERVICE  
LEVELS WITH AN EMPHASIS ON  
TELEHEALTH APPLICATIONS**

**— FINAL REPORT —**

**SAN DIEGO, CALIFORNIA  
FEBRUARY 22-24, 1999**



## NATIONAL TRIBAL TELECOMMUNICATIONS WORKSHOP PARTICIPATORY STRATEGIC PLANNING PROCESS OVERVIEW

### Introducing Participatory Methods:

The participatory methods used to facilitate the planning workshops for participants of the National American Indian Telecommunication Workshop are based on foundational values which are quite straightforward:

**PARTICIPATION**...recognizing that each individual holds a piece of the puzzle and creating an environment of honor and trust which elicits participation.

**TEAMWORK** ...creating opportunities to work together in different configurations of small teams and to broaden dialogue, understanding and decisions.

**CREATIVITY**...giving permission for the dialogue between rational knowledge and intuitive insights to occasion a synthesis of new approaches.

**CONSENSUS**...developing decisions through a process of sharing all perspectives and discerning options which respect the diversity of individual views while honoring the whole.

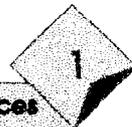
**ACTION**...honoring the investment of time by all participants by moving from consensus to action through accountability based planning.

### How the workshop process works...

First, individually and then in small groups everyone participates in intuitive brainstorming. Second, the facilitator works with the group to weave their ideas together into clusters with an eye to new relationships. Third, the group names the clusters in an attempt to articulate their profound insights on each. Finally, the facilitator leads the group in reflection on what has been accomplished, the new resolve and decisions that have been made.

### These planning sessions...

The group first assessed the current situation with technology by answering questions in an Environmental Scan. In this Environmental Scan the group responded to questions to assist with getting a feel for the current reality. The group then brainstormed actions to use within their individual Tribes and Tribal Communities. The group completed this work in a half day session.



**NATIONAL TRIBAL TELECOMMUNICATIONS WORKSHOP****ENVIRONMENTAL SCAN**

*As an introductory activity, participants were asked to do a brief scanning of the external and internal environment. The following data includes the questions asked and participant's brainstormed responses.*

**STATE OF TECHNOLOGY (BASIC DATA)**

*What is the current state of technology for Tribes and Tribal Communities?*

- Lack Of Band Width For Technology For Distance Learning
- Assessing Refining Issues And Writing Utility Code
- Limited Accessibility For T1 Lines
- Local Phone Companies Do Not Think Tribes Or Tribal Entities Are Working With New Technologies
- No Competition For Technologies Drives Up Cost
- Perception That Tribes Do Not Have Infrastructure Or Expertise To Warrant Upgrading Services To Reservations
- Perception That Tribes Do Not Have Economic Base To Support Service
- Service Providers Denying Or Overcharging For Tribal Access
- Financial Access Barriers For Hook Up Even Where Systems Exist
- Public Utility Codes Of States Not Looking Out For Interests Of Tribes
- Without Utility Codes, Tribes Have No Voice
- Lack Of Basic Phone Service In Tribal Communities Unserved Areas= Nobody's Responsibility
- Communication Issues Between Long Distance Coalition And Local Exchange And Who Is Responsible As A Result Nothing Gets Implemented
- Unknown On Who To Lodge Complaint With For Action Need Local Education

## NATIONAL TRIBAL TELECOMMUNICATIONS WORKSHOP

### ENVIRONMENTAL SCAN - TRENDS

*The Trends conversation considered the shifts and changes in the external world. The group discussed international, national, Indian Country and regional trends. There are both assisting trends, those which we can take advantage of, and resisting trends those which could catch us up and distract us from our focus. Trends are listed below*

#### **Assisting Trends**

- Tribes Have Had To Become Service Providers Themselves
- US West And GTE Selling Off Exchanges
- Technological Options Available Now That Were Not Before

#### **Resisting Trends**

- Feds And Service Providers Expect Tribes To Know Real Numbers, Accessibility, And Services
- Phone Companies Driven By Profit Motive
- Rural Areas Where No Switching Capacities Exist Are Not Being Built Onto
- Local Carriers Are Not Upgrading Existing Equipment
- Relationship Between Projects That Get Funded And What Gets Delivered Is Shaky
- Indian Country Has Not Benefited From Universal Service Funds — Or are They? Maybe Receiving And Using It Elsewhere
- Technologies Developed For Urban Access
- Volume Capacities Not Perceived As Needed In Rural Areas
- When LATA Boundaries Were Developed, Reservations Were Not Considered

#### **Both Assisting And Resisting Trends**

- Deregulation

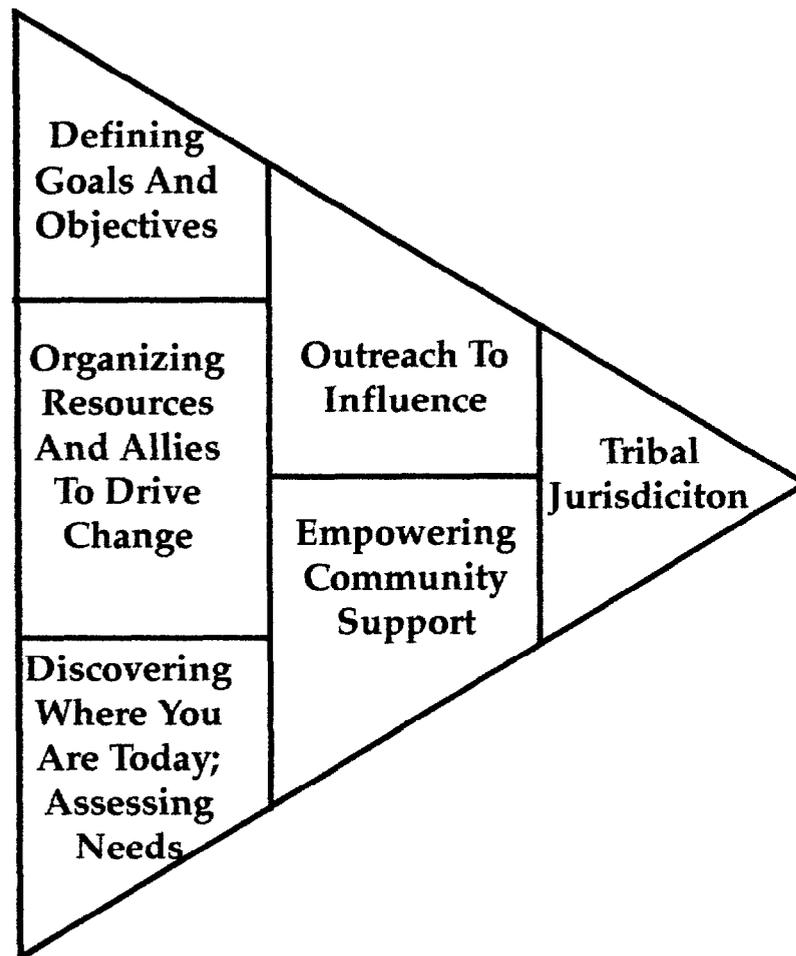
## WHAT ARE THE SPECIFIC ACTIONS WE CAN TAKE TO SEED TELECOMMUNICATION SERVICES IN OUR COMMUNITIES?

DEFINING AND EXERCISING TRIBAL JURISDICTION	OUTREACH TO INFLUENCE	EMPOWERING COMMUNITY SUPPORT	DEFINING GOALS AND OBJECTIVES	ORGANIZING RESOURCES AND ALLIES TO DRIVE CHANGE	DISCOVERING WHERE YOU ARE TODAY ASSESSING NEEDS
Develop Tribal Uniform Voice On This Issue	Tell FCC What's Going On	Educate On Issue To Tribal Members And Non Indian Community/ Governments	Prioritize Needs	Partner With Private Industry and Political Representatives	Understand Basic Infrastructure Needs Prior To Telecommunications
	Educate Everyone Infrastructure, Technology		Figure Out How To Get Money		
Simplify Right Of Way Policies	Educate Tribal, State and Federal Government	Drive Tribal Policy Through Studies/Surveys	Form Local Team to Forward Issues	Identify Consultants With Knowledge of Current Technological Trends	Conduct Accurate Survey Of Current Telecommunication Infrastructure
	Leverage Federal Programs: NGI, NSF, NASA, DOE, RUS			Create International Forum	
Write Utility Code At Specific Objectives	Public Hearing To Voice Issues With Results	Technological Training And Labor force Sustainability Creating Jobs And Training	Develop Long Range Business Plan	Join National Tribal Telephone Association	Survey Utility Needs
	Drive Federal Policy Through Studies Or Surveys			Empower Small, Rural "In Need" Tribes Through Solidarity By All Tribes	
Get Knowledge Laws Policies	Stimulate Tribal Involvement	Create Technology Map For Tribal Members And Councils, Constituents Community	Create Awareness Of Funding Opportunities	Partner With Non-Government Entities With Common Interests; Cellular Industries, Private Corps. Who Lobby, Other Consumers, At Tribes	Understand Own Tribes Specific Needs And How To Use Existing Technology To Get There
				Articulate Future Vision Model	

## NATIONAL TRIBAL TELECOMMUNICATIONS WORKSHOP

### Prioritization of Actions

The group was asked to organize the action arenas to indicate which activities were out front, breaking through barriers and creating opportunities for success in other areas, followed by supporting actions.



**NATIONAL TRIBAL TELECOMMUNICATIONS WORKSHOP  
PARTICIPANTS LIST**

Alex Alavi – Motorola NSS  
Gary Beaver – US West Communications  
Ruby Begay – Systems Manager Division of Social Services, Navajo Nation  
Hiram O. Campbell – Dir. Safety & Health SonomaCo. Indian Health Project  
Emmett Chase – MD, MPH & CEO K'im:w Medical Center  
John P. Charlie – TSS Supervisor, Yukon Kuskokwim Health Corp  
Steve Dupuis – Program Manager, All Nations AMP, Salish Kootenai College  
Gladys Fisher – Land Use Specialist, Colorado River Indian Tribes  
Lee Gardner – Colorado River Indian Tribe  
Louis Good Voice Eagle – Planner/ Grant Writer, Rosebud Sioux Tribe  
Eric Gregory – Information Systems Manager, CA. Area IHS  
Linda Gutierrez – Ft. Mohave Telecom Inc.  
Michelle Hansen – Tribal Attorney, The Suquamish Tribe  
Neal Holt – Information Systems Manager, CA Rural Indian Health Board  
Brett Johnston – Telecommunication Technician, Nez Perce Tribe  
Laurie LaCour – Computer Services Director, Nez Perce Tribe  
Herman Laffoon – Commercial Manager, Colorado River Indian Tribes  
Alfred Largo – Computer Support Technician, Div. of Social Serv., Navajo Nation  
Isaac MacKechnie – Telecommunications Mgr., Sault St. Marie Tribe  
Joseph Manuel – Sec. for Board of Directors, Gila River Telecommunications  
John Mullen, Ph.D. – Assoc. Professor, New Mexico State University  
Bahram Nassersharif Ph.D. – Academic Dept. Head, New Mexico State Univ.  
Alpha Noel – Consultant, TCA  
Ray Poitra – CEO Uniband, Inc.  
Linda Riley Ph.D. – Assistant Professor, New Mexico State University  
Georgia Rye – Council Treasure, Suquamish Tribe  
Steve Sabotta – Computer Networking Technician, Nez Perce Tribe of Idaho  
Roy Sahali – National Library of Medicine University of Washington  
Sam Sekaquatewa  
Chuck Spencer  
Dan Carlos Steele MD – Sonoma County Indian Health Project  
Theresa Wright – Admin. Assistant, San Diego American Indian Health Center  
Madonna Peltier Yawakie Minnesota AISES Professional Chapter  
Melvin Yawakie – US West Interprise Networking Services

## NATIONAL TRIBAL TELECOMMUNICATIONS WORKSHOP

### FACILITATION

This strategic plan was facilitated by Lesley Kabotie and Monique Alire Moynihan staff of the Alire Group. With twenty years experience the Alire Group serves Tribes and Indian organizations across the U.S. and In Canada. The Alire Group Facilitation Services focus on four key types of facilitation work which include:

- ◆ **Participatory Strategic Planning** - a two-day comprehensive planning process which assists an organization in articulating its vision, analyzing its issues, creating strategies and targeting action priorities for implementation. This consensus-based approach brings an organization together for dialogue and decision and produces tangible results in a timely manner.
- ◆ **Conference Design & Development** - planning and carrying out lively conferences which weave together diverse perspectives on a topic or a variety of topics. This approach to conferences moves beyond relying on a handful of presenters to recognize and engage the wisdom of all the participants in the conference proceedings. It provides the tools to carry out a truly effective "working conference."
- ◆ **Facilitation Training** - intensive training workshops to equip organizational staff and/or volunteers in facilitation methods. Hands-on skill development combined with the understanding of the principles and values which honor diversity of perspectives are at the heart of our facilitation training. The Alire Group Facilitation Services staff have customized and created courses targeted to the unique challenges of many diverse groups and organizations.
- ◆ **Organizational and Management Development** - opportunities for in-depth reflection on current organizational and management practices and the development of skills and processes to enhance organizational effectiveness and productivity. Assisting organizations in dealing with change, this area of facilitation involves tailoring state-of-the-art training and organizational development work to specific organizational needs.
- ◆ **Curriculum Development** - a series of training services which combines our participation technology with learning methodologies. Developed through our work to harvest community wisdom for educational curriculum use, we have tools which have been successful in the classroom and in community outreach education. These have served professional educators, community educators and those who are required to develop new training curriculum for the workplace.

For more information please contact us at:  
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Denver, CO 80220  
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[www: aliregroup.com](http://www.aliregroup.com)

**National American Indian Telecommunication Workshop  
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*Next Workshop, February 22-25, 1999, San Diego Town & Country*

**MR. CAMERON:** Today I will be co-presenting with Ken Chandler. Ken is the director of our Southwest area. He has the most experience working with the Native American loan accounts. The majority of them have fallen in the Southwest. For a while, Ken was also responsible for the Northwest Region - or everything west of the Mississippi River.

The RUS web site contains our phone numbers, regulations, enabling legislation - The Rural Electrification Act, lending programs and some success stories

The reason we will always come to meetings like this is that we know there is a service penetration problem in Native American areas. Most of our new loan accounts have been with Native American companies in the last few years. It is our job to get good, modern telephone service to everyone in rural America and, Native American areas are generally in rural areas

We know the penetration rates that you just heard are true. They're a disgrace to the national telecommunications system, and it is our job to do something about that.

Ken will give you some of the details of our loan program, how to get in touch with us, what the procedure is to get a loan.

In the Federal government, we are the agency that has the money, the expertise you need to start a telephone company or get an existing telephone company to extend into your area, so your penetration rates up to the national averages or better.

**MR. CHANDLER:** Good morning, everybody. First, I will give you a really quick run down on who we are, what we do, and how we're structured, and how would one go about getting a loan from RUS. All the material that we're going to present is in your notebook under the tab marked Rural Utilities Service. So if you want to keep or take notes on there, that's fine.

Our agency has three programs. The telecommunications program is subdivided into two subprograms. One is our traditional loan program, telecommunications loan program, which I'll spend the most time talking about this morning, and then we have another one that we picked up in 1993 called the distance learning and telemedicine loan and grant program. The second program is electric, and they're structured similar to us. Electric loans given mainly cooperatives who provide electricity in rural areas. Loans are also available for power and generation. The third program is water and environmental programs which provide loans and for rural water systems, sewage treatment systems, and various other things.

The way our regulations are written, if the State Public Utilities Commission issues certificates of convenience and necessity, or certificates to operate in the area and to borrow money from us, you have to have that certificate.

That's evolving and changing in the light of the Telecommunications Act and competition. Also, I think I'm pretty safe in saying for our five Native American borrowers, the a state commission does not regulate on the reservation.

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Next Workshop, February 22-25, 1999, San Diego Town & Country

We have a borrower in Hawaii with native Hawaiians. They have asked the Commission to regulate on the Hawaiian homelands, because they lack the wherewithal to regulate utilities, and so, they've asked them to do it. As such the Hawaiian borrower needed a certificate from the PUC which agreed to regulate the homelands. We loan to cooperative, non-profit, limited dividend, or mutual associations. On the telephone side, we there are both cooperatives and commercial, incorporated companies. No loans are made to individuals.

We keep using the word "rural" -- this government definition may vary. For us it means any area with 5000 inhabitants or less. So any village or town or unincorporated area. If you're serving in an area that has less than 5000, we say that's rural. Now, that doesn't mean couldn't serve a town larger than 5000, but it means that the majority of the money we loan has to go for the rural areas, not greater than 5000.

We want to loan money to full-service providers, which means you must provide the full range of local exchange telephone service, not just targeted -areas like data circuits, or only a certain area of the reservation.

The company must be incorporated. We cannot duplicate lines, facilities, or systems already providing reasonably adequate service.

This non-duplication rules conflicts with Telecom Act of '96 which mandates competition. If you're going to have competition, that means you're duplicating something that's already there. Congress placed this rule in our enabling legislation and we can't change this. However, there is the little phrase in there "reasonably adequate," and that may play into it. Basically, if someone comes to us and says "I want to provide service in an area that already has adequate service," we must say that we cannot finance you, because you're duplicating service. Even though the Telecom Act says that's perfectly fine, the FCC says that's great, everybody says you're working within the rules, we can't finance it.

**MR. SCOTT:** My name is Greg Scott; I'm a commissioner on the Minnesota Public Utilities Commission. When I read the non-duplication bullet point I thought that seemed to be an incredibly antiquated notion that largely -- it seems to me, defeats the whole purpose of the program.

Part of the excitement for me about tribal ownership of telephone companies in Minnesota is that a lot of those areas are served presently by GTE. While I don't know if you could say that it's inadequate service. A lot of people are unhappy with the service. If we can't get competition started in those areas through this RUS program -- I think that seems to cut the program.

**MR. CHANDLER:** This hasn't been a problem in the past. Most of our existing Native American borrowers, already had somebody there providing service on the reservation before they came to us. But what happened is that other entity went away, either voluntarily or involuntarily. So, we're not duplicating service, because that service is not there any longer.

The definition of what is adequate service is an evolving definition. What they meant back in the '40s, when our program started, may be entirely different today. Our problem is that this particular phrase goes back to the Rural Electrification Act. It's not just a regulation that we can just publish and say if everybody agrees, we're going to change this to something else.

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**MS. YAWAKIE:** I need some clarification. Did you just say that the Tribes that own their own companies, their existing provider left? What was the last comment?

**MR. CHANDLER:** Yes.

**MS. YAWAKIE:** Voluntarily, or --

**MR. CAMERON:** Or abandoned, or whatever.

**MR. CHANDLER:** Or abandoned the services. I don't remember all the situations, but they may have made an agreement to buy their plant or not. But what if their plant is no good? The main reason you want to do service in the first place, because service is so bad. They say buy my plant and you say I don't want it, because if I pay you for it, then I'd have to retire it and replace it. So they may not have been happy with the deal that was struck, but they all left.

**MR. CAMERON:** Okay. You're right Mr. Scott that the non-duplication rule is an antiquated requirement. It goes back to the 1936 Rural Electrification Act, and we have looked at this in great detail. When you look at the legislative history, non-duplication, apparently, was a requirement that had to be in the Act for Congress to accept the Act and pass the Act. If someone went to Congress for a change, it would have a profound effect on the Rural Electrification Act. And if Congress made this change, they'd probably make a lot of changes.

Nonetheless we have a program that gives government cost of money loans, and the competitors, the companies that don't borrow from us don't have this interest rate. So, I have a feeling that Congress would be reluctant to take out the non-duplication and leave us with some good low-interest loan programs.

As I said, we will explore the very edges of the definition of "adequate service," and try to work within the Act and still finance maybe new entities. Entities which their very reason to exist is to provide adequate service where there has not been reasonably adequate service in the past.

So, you will see some changes in the way will work with this non-duplication. Our mission as an agency is not to create or encourage a competitive environment. It's just to get basic telephone, modern telephone service into rural areas, and particularly areas where there is not that modern telephone service today.

**UNIDENTIFIED ATTENDEE:** I think a way out might be that most rural places have limited lines available currently, and that if you take this statement, this bullet point and say well, we're not duplicating lines. What we're doing is that there's an increased need for services in the communities, and outlying communities because of population growth, economic development, whatever.

So currently, the lines that exist is not adequate, so you'd get by saying, you know, you're not duplicating lines, you're adding additional lines.

**MR. CAMERON:** I think it may. Thank you.

**MR. CHANDLER:** Our program also focuses on serving the widest number of practical subscribers.

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Certainly out West, there will be pockets of people that are just so far away that it's just not possible, but by and large, our borrowers serve everybody who want service, at the same rate. And of course, you have to meet all the applicable State and FCC requirements. Our the regulations and loan programs can be found in 7 CFR part 1735.

**RUS Field Staff:** We have a field staff that is assigned to each state. Most of our agency, however, for the telecommunications and electric programs are headquartered in Washington. The staff travels. Some staff members handle more than one state. They travel around and visit our borrowers and provide certain oversight, technical assistance, and prepare loan applications. So, they are the main contact point for submitting a loan to us. Their names are listed on the website.

So if you were interesting in getting a loan from us, contact them and ask that they can come visit with you, and discuss the issues. All application material is submitted by them. In other words, you do certain things, studies, et cetera, you give it the field person. That person gathers additional information, some regulatory information and other statistical information that we need, puts that all together in one package, and submits that in to us.

We are required to process applications within 90 working days. Twice a year, we are required to go to Congress and tell them which ones took longer than 90 days. That's about the time it takes us to do our studies. Then we give you the terms of the loan and have you give us a decision on whether you want it.

We do engineering studies on the design of the loan, to make sure that what you want to do is feasible and can be done in the time frames, and come up with the construction budget.

We mainly finance construction. We have funded operating funds, but that is not done very often. Under certain conditions, we finance acquisitions of somebody else's property. We do a feasibility study, which is basically to make sure that you can pay us back. The telecommunications program has never had a default in the history of our program, and we don't want to start. On the electric side, which they're entirely different industry, but they have some defaults.

Our success rate is attributed to the close work with our borrowers from the very beginning all the way through the loan construction and project. Also we're very conservative when we do our feasibility studies, to make sure that you pay us back. After we do all those studies, we'll send you a letter and say here is the basic terms of the loan, what we propose, and if you say go ahead, then we go ahead and make the loan.

The way our program works, we don't just write you a \$5 million check and say, "Here, go spend it." Our borrowers spend the money as they construct, and we have a close relationship with you during that period. We look at plans and specifications, contracts. We publish a lot of specifications and contracts, et cetera. to help you out.

**MR. CHANDLER:** Besides the field representatives, are Washington, DC has experts that can help you with technical assistance on switching an outside plant and electronic equipment.

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Our website has several listing like the required materials list for our borrowers. We don't list everything just the things used the most. A manufacturers list that meets certain product criteria is also provided. If we have problems with a plant and it's not operating correctly and the manufacturer is not -- or the vendor is not giving you good service, let us know and we will intervene for you.

We also publish specifications, outside plant, switching, electronic equipment, microwave, and other equipment requirements. Those specifications are also used by the Department of Defense a lot and by 145 different foreign entities.

We also require you to use one of our standard forms of contract. Our contract, believe me, is in your interest. It's definitely biased towards you, to make sure you're protected should the contractor default or do something that it shouldn't be doing.

Consulting engineers. Typically, for our borrowers, because we're talking about multi-million-dollar projects, there is a consulting engineer involved because you need someone who has expertise to help you as far as making decisions on -- network decisions, networking, system design, oversight of construction, et cetera. It helps if the consulting engineer is familiar with our program because they know the paperwork side of it, and they know to use our specs and contracts, and all of those type issues. We do not prequalify engineers.

We can provide you names of ones that do business with the RUS program, if you just totally don't have any idea where to even start. You can also go to the Association of Communications Engineers, which is a national organization of consulting engineers, and they can also provide you a list of engineers that do work in your area.

You may use an in-house engineer -- some of our larger borrowers have on staff an engineering staff, and once they get experienced in our program. They must, however, meet certain requirements.

**MR. CAMERON:** That's the post loan engineering.

**MR. CHANDLER:** On the preloan - you may want to hire somebody to help you put your application together, that's totally up to you. We don't participate in that. You can either hire somebody or you can do it yourself. But we do recommend, if you're one of our borrowers, if you want to borrow money from us, that you want to pick somebody that's familiar with our program. Because you don't want to be paying him to learn how to do our paperwork. Make sure he knows right away.

One final step, is an auditing function. Our accountants travel around and audit the expenditure of money, and to make sure that it was spent for the purpose that we loaned it for. If it wasn't, then you have to pay us back for that amount of money. There is another emphasis there. The audit gives us loan security, because we know you're going to do what you say with the money. But it is also, good oversight and helps you that you will be paid.

We have borrowers in Alaska with Native Alaskans, and like I said, we had a borrower in Hawaii for Native Hawaiians. We also have five borrowers in Indonesia that -- specifically that qualify for our program because they are in current US territories, like Guam, or former US territories. We have five borrowers that are

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Native American entities. In other words, they're – our borrower is that entity, and they're providing service exclusively on the reservation.

But we also have 73 borrowers that provided service, at least some service on a reservation, where maybe in their area there's a reservation, and they provided service there, in addition to the rest of their area. In 1994, when the list was compiled the borrowers served 42,961 American Indian subscribers.

The American Indian borrowers are from Arizona except, Cheyenne River in South Dakota which is our oldest and most mature one.. They have multiple loans. San Carlos is the newest one. We just made a loan there. We just released it within the past year. They've just started their construction. Okay.

**MS. YAWAKIE:** Some people think that there's a reason that the State is more friendly in Arizona to Tribal ownership. Could you talk about why four Tribes out of the five are located in Arizona?

**MR. CHANDLER:** I can't answer why it is. We are talking to three or four other Native American entities in New Mexico, one in California, and some more in Arizona. I don't know why so many turned out to be in that state. It may not wind up being that way exclusively, but it just turned out that way.

**MR. CAMERON:** Who is the consulting engineer for those four?

**MS. YAWAKIE:** I think it same for three of them.

**MR. CHANDLER:** There may be a certain expertise that they have attained. We can also help because we learn every time we go through a tribal application.

The next slide shows the penetration rates for the tribal companies. We don't keep statistics on telephone companies in general, and nor does any other entity, Federal or otherwise, that collects that kind of data. The first column shows the initial penetration rate, I feel comfortable with those figures. I think they're very accurate, because that was based on when they first came to us. Someone went out and actually counted the houses, and which ones were inhabited and which ones didn't have service.

The current column is where we have a little bit of a problem. And this arises out of the fact that we use access lines, rather we call them subscribers, but for instance, you can have a household that has more than one telephone line, so they have two, maybe two access lines, but it's only one household. Now we get situations where houses have two, sometimes three telephone lines. So if you made your calculations based on the number of access lines that a company has, versus the number of inhabited houses -- you will really high percentage. And that's why I think we had such high ones.

The Gila River one, the 54 percent, because we followed it up with them. Because on access lines, their percentage is like 130 percent, and of course, penetration rates that doesn't make sense. The correct number is 54 percent.

So I think probably the Tohono O'Odham at 95 percent is probably something less than 95 percent actually, but I don't know -- I don't have statistics to calculate it. So I was afraid that -- we'd make a wild

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guess.

**UNIDENTIFIED ATTENDEE:** The handout shows a drop in Gila River to 40 percent.

**MR. CHANDLER:** That's right. Thank you for pointing that out. What happened is I had provided the information to you before, and I was working on this right up to the last minute, because I was worried about that. I said, you know, how can it go down? Because they've been -- you know, they've been expanding their plant and constructing. But the reason was, is because we didn't have an accurate count. And so, we followed up with them.

So these are the current figures made some changes at the last minute. So this is an updated slide, so you might want to update yours.

But I will caution you, in that current column, you know, don't go using those figures as hard figures, because like I say, we don't have hard figures.

Now, we're considering changing our statistical form that we collect this on to try to get more accurate figures, so that we actually get a better picture of the actual penetration, not the access line number. Okay. Yes?

**MR. WILLIAMS:** JD Williams from CRST Telephone. The only comment that we'd like to make on that is we feel ours is probably right at 75 percent, and it is skewed by what you talked about.

**MR. CHANDLER:** Thank you for that. That's a good yard stick to look at, 75 versus 96. Okay. We've got to really get going here. I'll take up all of Ed's time.

Just a couple of other high points. This came up before, when we've addressed a similar event like this. Our program is a little different. We don't target our money. It's basically first come first serve. As loans come in, we process them until the money runs out.

We only target rural areas, because that's the basis of our program. We can accommodate on special contracting and hiring rules that some tribes have. For instance, it may be that the contractor doing work for one of our borrowers is required to hire 10 percent of his work force from the reservation.

In 1984, Congress eliminated right-of-way charges, except for administrative costs for telecommunications on Forest Service and Bureau of Land Management.

Our last program is the distance learning and telemedicine loan and grant program. We mainly target the end-user side, and not the transmission. There's a separate CFR 1703 for that, and the same thing on the web site. If you go to the web site, all the information is available on that program. There's an application guide, and everything else is on there.

**UNIDENTIFIED ATTENDEE:** On monitored services, is that basically voice type technologies, or data such as like frame relay, or even wireless? Do you finance --

**MR. CHANDLER:** We finance telecommunication service. We don't care how it gets there. You know, so anything that is providing telecommunication service. We cannot finance cable TV service or technology.

**UNIDENTIFIED ATTENDEE:** So we're talking about like ATM or ISDN or whatever --

**MR. CHANDLER:** All that. We finance all that. I'm going to turn it over to Ed now. He's going to cover some topics specific to Native Americans and telephone service.

**MR. CAMERON:** For every dollar, borrowed from RUS another \$5 is spent from a nonfederal source. If you do a little arithmetic, you find out that that amounts to an annual 3.3 billion dollar increase in rural telecommunications infrastructure each year. That makes our program look a lot bigger than what it costs the taxpayers.

One thing wanted me to talk about is whether or not a Tribal organization should run a telephone service provider, whether you should set up a local service company. I'm trying to think about it from your standpoint. You have to think of these four issues when you looking at this question. And I will direct rest of my presentation. First, can you improve service to your community. Secondly, can provide better employment opportunities for your community. Thirdly, you can keep the earnings that the company gains within your community. Finally, can you stand alone as a service provider.

Now, I want to give you some national comparisons. These are out of the latest available FCC report. This is just statistical information. The average service outage time is not out of the FCC report.

The average local service rate is \$19.54 a month. If you've got a local service provider that's charging more than that, then there's a pretty good chance that you should be able to beat that. The average RUS borrower rate nationwide is approximately \$15 a month. The average toll bill, nationally, in case you wonder, is \$25.42 a month. We got that number from NECA. According to the FCC, the average minimum connection fee is \$43.33. The average service outage is 54 minutes a year. The average service in both rural and urban American is a one-party line.

Now, I'm going to jump past the two questions about employment and earnings, because they're not anything we can help you with. Once you have a design, a system design cost, we can help you decide if you can stand alone. Since we need to ensure our own loan security, we do feasibility studies on every loan application. We estimate toll revenues, all kinds of expenses, system design cost and subscriber forecast. We use all that information to help you figure out whether or not you can stand alone as a service provider.

The answer depends on the number of customers, the plant cost, and characteristics of the area which is the biggest factor. It will also depend on the outcome of ongoing FCC rulemaking regarding universal service support, and it's going to depend on the efficiency of your company's operation.

Next I will talk a little bit about where the local exchange companies, local exchange carriers, where the local telephone companies get their revenues. The average RUS borrower gets about 26 percent of its revenues from local service rates, another 9% comes from special services such as directory advertising. On average RUS

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borrower gets about 66 percent of its revenues from toll sources -- universal service fund, subscriber line charges, access charges, other access revenue sources.

And when you compare that to the national average, you start to see the problem for rural America. On local income, the national average is 45 percent and for RUS borrowers it is 26 percent. On average, RUS borrowers get 64 percent of their income from long distances sources, access-charge-based sources. When you look at the more rural states, that percentage goes up.

The FCC is currently reconsidered the distribution and the collection of this money is being under the Telecommunications Act deregulation effort. For the small telephone companies, it means changes in high-cost funding. That's the yellow slices of the pie that I was talking about. It means reduction of access charges and possibly competition.

The FCC may base the allocation of funds under its forward-looking cost models. These are computer models that calculate what it should cost to serve people in your geographical area. We have demonstrated to the FCC, I believe, and to the rest of the industry, I'm pretty sure, that these models are very imprecise in the most rural areas, for many reasons. The models does not have any idea where rural subscribers are.

**UNIDENTIFIED ATTENDEE:** Yes. On your revenue, your toll revenue calculations, have you injected any projection concerning E-mail and the Internet on how it's going to change long distance toll calls?

**MR. CAMERON:** No. What that pie chart shows you is our statistical report information. And that particular pie chart is based on '95 year-end statistical information, and then the following slide was actually based on '96 year-end information, which is the most current we have right now.

None of that has any projections of anything. That's just statistical reporting. You're getting into the question of what's going to happen to the telecommunications market in the future, as all kinds of new technologies come along, and maybe even as competition begins to affect the market share that a local service provider has traditionally counted on.

We've talked to other lenders in the telecommunications industry who have done research on similar to mine, and they also believe that we're just going to see a lot of market expansion, with no dramatic influence on the money that existing carriers make. I mean they may lose some market share because of competition, but there's going to be an expansion in the market that's going to largely compensate for that.

We are hopeful that when the FCC, starts looking at the support mechanisms for rural companies, will not base rural support entirely on the cost models. If they do, a lot of rural companies are going to be hurt very badly, and are going to get inadequate support.

The FCC is afraid that that present method of support universal service support encourages wasteful investment. In my opinion, it encourages the deployment of good service, of a modern plant. It pays the carriers more who have better plants, more modern plants, and who are willing to make plant improvements in response to customer demand.

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The other problem with universal service support is that in the May 8 Order, May 8, 1997, the FCC ruled that only 25 percent of the source for the universal service support would come from Federal sources, and 75 percent would come from states.

Well, the rural states don't have that money, and the only way they can raise that money is by raising rates statewide, to all customers, and that would be probably politically unacceptable.

Your monthly phone bill is going to change. Soon you will have an interexchange fee for carriers like MCI, AT&T to pay for universal service support. This is going to raise the awareness of the American public to the fact that they have been supporting rural high-cost companies. And this is trouble.

The Telecom Act has opened the service areas to competition. We are seeing the first competition of our borrowers going into neighboring areas and serving in those areas. We haven't seen anybody come into our borrowers' areas and start serving.

The Act gives States the opportunity to protect rural LECs to some extent, but many states have announced they're not going to protect rural LECs.

Now, we at RUS think the competition will come slowly to rural areas, and probably won't come within many years to most rural areas. The market is just not that attractive.

The rural LECs are very vulnerable to competition. Typically, they have a lot of high-cost customers, and a smaller number of low-cost customers, and a very small number of business customers. So, the vulnerability of a rural company to competition is much greater than the vulnerability of an urban company, which has a lot of low-cost customers, and has a lot of businesses that it serves.

And the low-cost customers and the businesses are where telephone companies make their money. And the money they make on that often subsidizes the service they provide to their high-cost customers.

The vulnerability to rural LECs is enormous to competition. A small rural provider could probably lose 10 percent of its customers, and its average costs might go up five or six times by that loss. You had a question?

**MS. YAWAKIE:** Just for clarification, RUS does not fund competitive LECs; is that true?

**MR. CAMERON:** Ask me a question at the end of the presentation about that.

**MR. CHANDLER:** Okay. So I said here rural LECs must price services so that losing those customers won't kill them. An interesting thing about rural telephone companies in general is that they charge very low rates, and those very low rates are the best defenses that any company can have against competition.

One of the things on your program is agency relationships. We work with the telecommunications trade associations very closely. We I enjoy working with them. We are about to get involved in a little project with a group of rural trade associations that we call the Rural Coalition. They're going to do a study with us, on the

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kinds we could make to our regulations to make us easier and more comfortable to deal with, and we look forward to that. In fact, partly as a result of this study, we have projected that in the next two years, we will revise almost all of our major regulations.

We work with the State regulatory commissions. We meet three times a year with the National Association of Regulatory Utility Commissioners. I just came from Seattle, where the meeting -- where NARUC is having its meeting right now. I made a presentation Friday night to the NARUC subcommittee on telecommunications. We've helped them with data that they wanted on rural plant costs. We gave similar information to the FCC.

We work with the FCC. I don't know if I can say exactly we work together, we mostly comment on their rulemaking actions. In the last two years, we have filed 22 written comments on FCC rulemaking issues.

Many of those have been on the cost model process, which we have taken great exception to, and we've delivered to them a lot of statistical information. Again, we are very concerned about the impact that cost models could have on rural universal service support.

Our June the 1st, '98 filing, comments on the FCC definition households in a manner which could result in less universal service support in underserved and unserved areas. We specifically mentioned Native American areas, where penetration rates are known by the FCC to be very low. But I mean we just can't have the FCC adopting a model that is just by definition going to provide underserved and unserved areas of this country with inadequate support.

Now about competition. We are wrestling with the question of what will happen if a company comes to us and it is going to -- it proposes to provide modern universal service to an area at affordable rates. And I would say this: If there is an existing company that is already doing that, that is, providing service, providing high-reliability service, high-quality service, reasonable rates, then we would not be able to finance the new entity.

I mean if the purpose of the loan proposal was just to set up another carrier to compete, then under our existing statutory authority, we could not finance the new entity.

However, if you do not have adequate service, if you have low penetration levels and if you have high rates, if you have antiquated service, if there are just areas that do not have any service at all, then that is not "reasonably adequate service."

And the facilities that provide that service are not providing reasonably adequate service, so we believe we probably could finance an area that fell under that kind of situation.

In our Act, there is mention of a requirement that any organization we finance must have a certificate of convenience and necessity from the Public Utilities Commission, if the Commission has authority to issue such a certification.

Well, there are a lot of interesting aspects to that little statement for you, because many Tribes may not be under the Commission authority. State commissions are changing the types of certifications they issue. We

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may also be figuring out a way to redefine the certificate of convenience and necessity so that it will operate under the regulatory environment that we're going to be living in.

The Act does not define it a certificate of convenience. It just says you got to have it. Actually many states, there is no such certificate today, as a certificate of convenience and necessity. Many states call them other things. And so, we've always had to define that term.

On Madonna's earlier question, we have financed one loan, that I'm aware of, to a borrower that was in an area that was certificated to another company, to a Bell company. And the Bell company had not provided service in that area to the proposed subscribers, and so, we actually made a loan in that situation. And the borrower was a CLEC.

**UNIDENTIFIED ATTENDEE:** You asked about Arizona, and the relationship with the State Commission Corporation, I'm a Lieutenant Governor, and although we govern through a state commission, we haven't used the state commission.

**MR. CAMERON:** It's my understanding and I'm certainly no expert, but it's my understanding that Native American areas are not subject to State regulatory authority.

**UNIDENTIFIED ATTENDEE:** With respect to reservations. The utility or the telephone company that serves the area may not even have a CC&N. That's what happened to us. US West never had the authority.

**MR. CAMERON:** Many of you probably know that the larger telephone companies have been selling off rural exchanges for the last several years, and many of our borrowers have been buying them. And we think that's probably going to continue.

I we see that in a lot of rural communities, that the company providing service in your area would willingly abandon the area, the right to serve that area, if someone else would come in and take the obligation to do that. There's some provisions of the May 8 Order that are going to reduce the value, the sale value of a lot of rural properties, and it has to do with toll settlements.

The wave of selling exchanges is probably something that slow down, because people don't have to buy those exchanges anymore. If you're talking about a Bell company, there are no protections afforded them in their local service areas.

So competitors will probably just go in and basically take over those service areas. Did you have a question?

**UNIDENTIFIED ATTENDEE:** Does a local service provider, with a RUS loan in place with the intent to service an Indian community on the reservation, need a certification from the Tribe?

**MR. CHANDLER:** The answer would be yes. In other words, our borrowers have to follow whatever local, State, Federal laws or regulations are in effect. In fact, some Tribal authorities issue certificates. They issue certificates for utilities, or whatever, on the reservation.

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So, if that's the fact, and a company comes to us for money that serves an area around the reservation, but they also want to provide service there. They'll have to get, for the areas outside the reservation, whatever is necessary from the State PUC, whatever is required, but they also have to get whatever authority is required on the reservation to provide service there.

**UNIDENTIFIED ATTENDEE:** Is there a built-in check? I mean let's say that a Tribe doesn't necessarily have a certification process, but arrangements from the prior years. How would you as the lending entity know, otherwise, that that's in place?

**MR. CHANDLER:** Because we have a field representative out there, and it's their job to make sure they know things like that. And also, keep in mind, if that company is going to serve the reservation, they're going to have to provide, you know, decent service out there, if they're one of our borrowers. We won't have any of this 30 percent penetration rate.

**MS. YAWAKIE:** Thank you very much for the information. I'm so very pleased with everything you provided, because it gives the other Tribes an understanding of the process that was used in their access of the money and your knowledge. So, thank you very much.