

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matters of)	
)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act)	GN Docket No. 09-47
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act)	GN Docket No. 09-137
)	

**REPLY COMMENTS OF THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS,
MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL AND THE
RAINBOW PUSH COALITION IN RESPONSE TO NBP PUBLIC NOTICE #5:
BROADBAND DEPLOYMENT AND ADOPTION ON TRIBAL LANDS**

The League of United Latin American Citizens, Minority Media and Telecommunications Council and the Rainbow PUSH Coalition (“Civil Rights Organizations”) respectfully submit these reply comments in response to National Broadband Plan Public Notice #5 (“Notice”)¹ regarding identifying and remedying barriers to broadband deployment and adoption on Tribal lands. Deployment and adoption issues on Tribal lands mirror those in other unserved and underserved communities throughout the United States. As discussed herein, we support many of the proposals advanced by organizations that encourage broadband efforts in

¹ See Comment Sought On Broadband Deployment And Adoption On Tribal Lands, NBP Public Notice #5, GN Docket Nos. 09-47, 09-51, 09-137 (released September 23, 2009) (“Notice”).

Native communities and Tribal government entities.² As stated in a recent study by Native Public Media (“NPM”), the Commission should recognize that in Tribal lands, “one size fits none” and it should take a Tribal centric approach, addressing the needs of “the Tribe and its anchor health, education and public safety institutions.”³ Placing Tribes at the center of broadband planning, implementation, and deployment is essential to the success of broadband adoption in Tribal communities throughout the United States.⁴

I. THE COMMISSION CAN INCREASE BROADBAND DEPLOYMENT IN INDIAN COUNTRY THROUGH INCREASED TRIBAL CONSULTATION

The Commission asks “What specific actions can the FCC and/or other federal agencies take to encourage or facilitate greater coordination and collaboration between the FCC, other federal agencies and Tribal, state and local governments to promote broadband deployment?”⁵ As the Broadband Diversity Supporters (“BDS”) recommend, as it implements the National Broadband Plan the Commission should consult with local institutions on a regular basis to ensure that the unique needs of minority, unserved, and underserved communities are constructively addressed.⁶

² See generally Joint Comment of the Native Public Media and the National Congress of American Indians, Broadband for Tribal Nation Building, GN Docket Nos. 09-47, 09-51, 09-137 (November 9, 2009) (“NPM/NCAI Comments”).

³ See Traci L. Morris and Sascha D. Meinrath, New Media, Technology, And Internet Use In Indian Country: Quantitative and Qualitative Analyses, Native Public Media, available at <http://www.nativepublicmedia.org/images/stories/documents/npm-naf-new-media-study-2009.pdf> (last visited December 8, 2009) at 39 (“NPM Study”).

⁴ Id. at 38.

⁵ Notice at 4.

⁶ See Initial Comments of the Broadband Diversity Supporters (Corrected), In the Matter of a National Broadband Plan for Our Future, GN Docket 09-51, filed July 5, 2009 (“BDS NBP Comments”) at 23 (stating that “Success requires thoughtful, comprehensive, and well-executed initiatives, featuring significant reliance on locally-based community institutions.”).

On September 3, 2009, the Advisory Committee on Diversity for Communications in the Digital Age (“Advisory Committee”) recommended that the Commission create a joint Native Nations/FCC Broadband Taskforce (“Taskforce”) to develop a comprehensive approach for resolving barriers to broadband deployment and adoption on Tribal Lands.⁷ This Taskforce would be comprised of senior Commission staff and Tribal community leaders. It would draw upon input from various stakeholders, industry experts, and members of Tribal communities with successful Tribal broadband projects.⁸ Ultimately, the Taskforce will develop recommendations “aimed at finally closing the infamous digital divide on Tribal Lands.”⁹

We agree with the Advisory Committee that now is the time to enhance coordination between the Executive Branch and Native Nations.¹⁰ As stated in the Notice, the Commission is aware that Tribal Nations are politically sovereign and enjoy a unique government-to-government relationship.¹¹ To that end, we support recommendations of NPM and the National Congress of American Indians (“NCAI”) in stating that tribal consultation at the highest level is key to bridging the digital divide in Indian Country.¹² Broadband deployment depends on the

⁷ See Advisory Committee on Diversity for Communications in the Digital Age, Recommendation on Creating a Joint Native Nations/FCC Broadband Taskforce, adopted September 3, 2009 (“Taskforce Recommendation”), available at <http://www.fcc.gov/DiversityFAC/meeting120309.html>, and follow link to “Telecom and Broadband Issues Subcommittee” (last visited December 8, 2009).

⁸ Id. at 2. This includes “input from other Commission advisory bodies” and “local and national minority and majority communications companies.” Id.

⁹ Id. at 3.

¹⁰ Id. at 2 (citing Memorandum for the Heads of Executive Departments and Agencies, signed by President Barack Obama November 5, 2009, available at <http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president> (last visited December 8, 2009).

¹¹ Notice at 3 (citing Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, 16 FCC Rcd 4078, 4080 (2000) (“Tribal Policy Statement”).

¹² NPM/NCAI Comments at 4, 12-13.

Commission creating new, robust means of coordination and consultation with Tribal governments and Native communities.

II. TRIBAL ENTITIES SHOULD BE CERTIFIED TO PERFORM BROADBAND MAPPING ON TRIBAL LANDS

We agree with NPM that the Commission should require certification of Tribal entities for broadband mapping on Tribal lands.¹³ NPM estimates that broadband penetration on Tribal lands is less than 10 percent.¹⁴ Groups with genuine ties to Tribal areas should assist with the National Broadband Plan because they are uniquely engaged with their communities and can ensure accuracy of information.¹⁵ As the Broadband Opportunity Coalition (“BBOC”) stated in its Section 706 comments, national broadband mapping will document a pattern of unequal broadband availability in areas with high concentrations of poor, minority, or rural households, and in some rural areas with high minority and poor populations, including insular areas and Tribal lands.¹⁶

III. THE UNIVERSAL SERVICE FUND SHOULD BE EXPANDED TO INCLUDE ADOPTION AND DIGITAL LITERACY

The Universal Service Fund’s (“USF”) high cost programs, including the Lifeline/Linkup, Rural Health Care, and E-Rate programs, should all be restructured to meet the

¹³ See id. at 15; NPM study at 43-44.

¹⁴ NPM Study at 5.

¹⁵ See NPM Study at 39; see also BDS NBP Comments at 33 (stating that the government should rely upon “regional-based groups with genuine ties to unserved and underserved communities”).

¹⁶ See Comments of the Broadband Opportunity Coalition In Response to the Section 706 Notice of Inquiry, and A National Broadband Plan for Our Future, GN Docket Nos. 09-51 and 09-137 (September 4, 2009) at 8 (“BBOC Section 706 Comments”). There was a great deal of telecommunications deployment redlining in the past. See NPM study at 43 (discussing how Tribal entities have become “carriers of last resort” due to redlining of Tribal communities).

objectives of the national broadband plan.¹⁷ We agree with NPM/NCAI that USF programs should be revised to extend the benefits enjoyed by school, libraries, and hospitals to the entire community.¹⁸ As stated in BBOC’s Section 706 comments, reforming USF will allow those in low-income and isolated communities to have access to otherwise cost-prohibitive employment information and healthcare alternatives for these regions.¹⁹

The need for broadband access and education does not diminish once one leaves her local school, library, or healthcare facility. Local and community-based programs should be included in adoption and digital literacy on Tribal lands and in Native communities. As BDS stated in comments earlier in this proceeding, the Commission should rely on “regional-based groups with genuine ties to unserved and underserved communities” and “national intermediary nonprofit organizations and community institutions, including creative new entrants, to build awareness and foster demand for broadband.”²⁰ Special consideration should go to organizations such as Native American Serving Institutions (“NASIs”), Historically Black Colleges and Universities (“HBCUs”), Hispanic Serving Institutions (“HSIs”), Asian American Serving Institutions (“AASIs”), and similar institutions that have experienced great success despite being hampered by the effects of past segregation.²¹

¹⁷ See BDS NBP Comments at 15.

¹⁸ NPM/NCAI Comments at 18.

¹⁹ BBOC Section 706 Comments at 9-10.

²⁰ BDS NPB Comments at 25, 33.

²¹ Id.

IV. THE COMMISSION SHOULD ENCOURAGE INCENTIVES FOR ADOPTION AND INCREASED AFFORDABILITY

The Commission asks “[w]hat specific tools can the Commission and/or the Tribes utilize to promote digital literacy and education on Tribal lands?”²² We believe there are a number of mechanisms the Commission and the Tribes may use to increase broadband adoption and improve affordability of broadband on Tribal lands. As discussed supra, USF funding could be revised to include training in digital literacy.²³ Additionally, many leading civil rights organizations support “supply and demand-side incentives including vouchers, tax incentives, or low interest loans, to finance the Commission’s efforts to increase broadband adoption in unserved and underserved areas.”²⁴ A broadband voucher system could operate similar to the digital television (“DTV”) voucher program that assisted with conversion to this new technology.²⁵ Tribal communities and consumers should be able to use the vouchers to subsidize the cost of any broadband service or equipment they choose.²⁶ In that way, consumers will be able to decide which products and services best meet their needs, therefore encouraging

²² Notice at 5.

²³ See supra Section III.

²⁴ See Comments of the Asian American Justice Center, League of United Latin American Citizens, Minority Media and Telecommunications Council, National Association for the Advancement of Colored People, National Urban League, and One Economy Corp. in Response to National Broadband Plan Public Notice #16, GN Docket Nos. 09-47, 09-51, and 09-137 (filed December 2, 2009) at 8 (citation omitted) (“Civil Rights Adoption Comments”).

²⁵ See Comments of the Asian American Justice Center, National Council of La Raza, and Rainbow PUSH Coalition in Response to National Broadband Plan Notice #18 (filed December 7, 2009) at 7 (“Civil Rights USF Comments”).

²⁶ See Comments of the Minority Media and Telecommunications Council, Over-The-Air Broadcast Television Viewers, MB Docket No. 04-210, 2-5 (Aug. 11, 2004) (“MMTC Broadcast Television Viewers Comments”) at 5 (recommending that “vouchers be available not only for converter boxes, but also to partly subsidize the cost of DTV sets and multi-channel video. In this way, the voucher program would not intentionally contribute to a two-tier system of television signal deliver, in which multi-channel video is for the wealthy and middle class, and minimal service is for the poor.”).

competition and increasing consumer independence, self-respect, and dignity while directly advancing the goals of USF and Section 706.²⁷

V. TRIBAL OWNED BROADBAND SERVICE PROVIDERS ARE KEY TO THE SUCCESS OF BROADBAND DEPLOYMENT ON TRIBAL LANDS

The Commission asks “[w]hat actions, if any, can the FCC and/or the Tribes take to facilitate carrier entry into Tribal areas for the purpose of providing affordable and sustainable broadband service?”²⁸ We agree with NPM/NCAI that Tribal-owned service providers should be the “carriers of first resort” for deploying broadband service.²⁹

As NPM stated in its report, “Tribal centric’ business models have the greatest chance for sustainability” on Tribal lands.³⁰ Tribal engagement increases the likelihood of success for deploying broadband networks.³¹ The importance of participation by Tribal-owned service providers is underscored by MMTC’s Comments on Rural Broadband Strategy.³² As with most telecommunications technology, the main line, or “backbone” is constructed along major highways, then it branches out to adjacent communities.³³ This often leaves rural, isolated

²⁷ See id. at 4 (“When consumers are empowered to render purchasing decisions, they base their choices on attributes the government cannot easily offer: competitive prices; convenience of retailers’ locations; brand awareness and credibility; retailers’ reputations for fair service and for assistance with installation and repair; retailers’ and manufacturers’ domestic and international labor practices and community involvement.”). A complementary approach might be to enable children eligible for free school lunches to receive reduced connect rates.

²⁸ Notice at 6.

²⁹ NPM/NCAI Comments at 8.

³⁰ NPM Study at 38.

³¹ Id. “When the Tribe itself is thus engaged, and its institutions and families are central to the planning, chances increase for the success of robust broadband networks.” Id.

³² See Comments of the Minority Media and Telecommunications Council, GN Docket No. 09-29 (filed March 25, 2009).

³³ Id. at 2.

communities unconnected unless they can bear the cost of middle mile infrastructure to connect with the backbone. This is especially the case for Native American and African American communities that were set apart due to forced removal and racial segregation in the 19th and 20th centuries.

Rural minority communities have been redlined by the marketplace with numerous discriminatory practices including denied credit, insurance, and other services that contribute to the creation of a viable financial base for any community.³⁴ Tribal-owned providers should be a central part of National Broadband Plan's efforts in deployment to Tribal lands and Native communities. Tribal carriers have knowledge of the areas they serve and their consumers' needs. Additionally, including Tribal carriers will benefit the communities they serve by encouraging economic development by the Tribes and for the Tribes.

³⁴ Id. at 2-3 (citing Christian E. Weller, *Access Denied: Low-Income and Minority Families Face More Credit Constraints and Higher Borrowing Cost*, Center for American Progress (2007), http://www.americanprogress.org/issues/2007/08/pdf/credit_access.pdf (last visited March 24, 2009); Gregory D. Squires and Ruthanne DeWolfe, "Insurance Redlining in Minority Communities," *The Review of Black Political Economy* at 347-364 (2007); Institute of Medicine, *Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care*, Brian Smedley et al., eds. (2003), available at http://www.nap.edu/openbook.php?record_id=10260&page (last visited March 24, 2009)).

Respectfully submitted,

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³⁵ Leave to file one day out of time is respectfully requested. The additional time was necessary in order to secure approvals from the leadership of the commenting parties.