

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109

COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.

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EXECUTIVE SUMMARY

Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these comments in response to the Notice of Proposed Rulemaking in which the Federal Communications Commission (“FCC” or “Commission”) seeks comment on proposals to comprehensively reform the Universal Service Fund and intercarrier compensation mechanism. GRTI, a telecommunications carrier wholly-owned and operated by the Gila River Indian Community, fully supports the FCC’s effort to increase the availability of broadband service to Native Americans residing on Tribal lands.

Native American communities historically have had less access to broadband services than other segments of the population for a number of reasons, such as the high-build out costs of the infrastructure necessary to provide ubiquitous broadband service to residents on Tribal lands and the limited financial resources of many Native Americans. In order to help overcome these challenges, financial support is required to deploy the necessary infrastructure to expand the availability of broadband services, as well as to provide discounts to Native American consumers to offset the high costs of these services. As demonstrated herein, providing financial support to accelerate the expansion of broadband services on Tribal lands is in the public interest.

GRTI believes that the Commission can take actions in 2012 that will help increase broadband penetration rates in the short term. These actions include reforming the current intercarrier compensation mechanism for the provision of DSL on Tribal lands and the creation of a Native Nations Tribal Broadband Fund within the current USF program to ensure the financial viability of tribally-owned telecommunications carriers serving Tribal lands (“Tribal Carriers”). GRTI believes that these proposals are supported by the unique government-to-government relationship shared between federally-recognized tribes and the federal government.

GRTI opposes a number of the FCC’s proposed reforms to the Universal Service Fund. Specifically, GRTI believes that decreasing the current 65% and 75% expense adjustment formula support percentages for High Cost Loop Support (“HCLS”) to 55% and 65%, respectively, eliminating the safety net additive support and local switching support, and imposing caps on reimbursable capital and operating costs will result in the financial ruin of many Tribal Carriers. As an alternative to the proposed USF reductions, GRTI recommends that the Commission slightly modify the current HCLS formula by substituting wideband-capable categories for Central Office Equipment Category 4.13.

Finally, GRTI believes the Commission’s proposals to utilize the National Broadband Map and reverse auctions are flawed. The National Broadband Map, as currently constituted, is an unsuitable tool to identify unserved areas eligible for funding because the current data on broadband deployment on Tribal lands is not accurate. In addition, the Commission’s proposal to use reverse auctions as a means to provide support are likely to result in a degradation of broadband service on Tribal lands and should not be adopted as proposed.

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COMMENTS OF GILA RIVER TELECOMMUNICATIONS, INC.

Gila River Telecommunications, Inc. (“GRTI”), by its attorneys, hereby submits these comments in the above-referenced proceeding in which the Federal Communications Commission (“FCC” or “Commission”) seeks comment on a proposal to make changes to the Universal Service Fund (“USF”) and intercarrier compensation (“ICC”) system.¹

As set forth more fully herein, GRTI supports the FCC’s effort to increase the availability of broadband service to Native Americans residing on Tribal lands. Broadband offers many benefits for Native Americans living on rural Tribal lands. GRTI believes that the Commission can take actions in 2012 that will help increase broadband penetration rates in the short term.

¹ *Connect America Fund, A National Broadband Plan for Our Future, et al.*, Notice of Proposed Rulemaking, FCC 11-13 at ¶ 1 (rel. Feb. 9, 2011) (“*USF/ICC Reform NPRM*”).

These actions include reforming the current intercarrier compensation mechanism for the provision of DSL on Tribal lands and the creation of a Native Nations Tribal Broadband Fund within the current USF program to ensure the financial viability of tribally-owned telecommunications carriers serving Tribal lands (“Tribal Carriers”). In addition, GRTI outlines reforms to the current High-Cost Loop Support system that would incentivize investment in broadband infrastructure over the long-term. GRTI believes that these proposals will provide the regulatory and financial certainty that is needed to increase connectivity on Tribal lands.

I. BACKGROUND ON GRTI.

GRTI is a telecommunications carrier wholly-owned and operated by the Gila River Indian Community, home of the Akimel O’Odham (Pima) and PeePosh (Maricopa) Tribes. Formed in 1988 for the purpose of providing affordable telephone services to the Gila River Indian Community, GRTI today provides voice, data and Internet (including high-speed DSL) services to residents and businesses on the Gila River reservation, which is located on approximately 372,500 acres in rural southern Arizona. Native American and Gila River Indian Community members make up more than 60% of GRTI’s workforce, including GRTI’s five person board of directors, which is comprised entirely of members of the Gila River Indian Community. GRTI currently has approximately 3,500 access lines, of which approximately 2,200 are residential lines. Since acquiring the Gila River local telephone exchange and related network from US West (now CenturyLink) over twenty years ago, GRTI has increased the wireline telephone penetration rate among Tribal households in the community from 10% to more than 80% today. While GRTI recognizes the significance of this progress, it is mindful that more needs to be done in order to provide essential telecommunications services and advanced services to all Tribal community members.

In particular, GRTI's two focus points for the near future are to increase broadband penetration rates within the Gila River Indian Community and augment its 911 system with next generation capabilities. With respect to broadband penetration rates, Native American communities historically have had less access to broadband services than other segments of the population, and GRTI's experience has not been an exception.² As part of its commitment to providing state-of-the-art services to the Gila River Indian Community, GRTI began wiring a select number of homes with fiber in 2009. Broadband penetration in the GRTI service territory presently is approximately 22%. In furtherance of its commitment to offering broadband, GRTI currently offers high-speed DSL and internet service at minimum speeds of 1.5 Mbps download and 256 Kbps upload to most areas of the Gila River Indian Community where residences and businesses are located.³

GRTI also continues to dedicate significant resources to improvements of its 911 system. Many of the street names in the Gila River Indian Community do not have signs. Additionally, public addresses on the approximately 8,000 structures in the community are almost non-existent, posing significant challenges to emergency and public safety personnel attempting to respond in times of crisis. Adding to this challenge is the fact that the existing wireline 911 service inherited from US West employed an address-based system and did not have GPS

² Federal Communications Commission, *Connecting America: The National Broadband Plan*, 152 (rel. Mar. 16, 2010) (“*National Broadband Plan*”).

³ GRTI also provides dial-up internet service to the Gila River Indian Community at \$19.95 per month. The price difference between GRTI's dial-up internet service and GRTI's bundled high-speed DSL and internet service is more than \$30. This price disparity, combined with lower income levels on the Gila River Indian Community, has resulted in a significant number of customers that still subscribe to such dial-up internet service. Although dial-up internet technology is expensive to maintain due to the fact that is a dying technology, GRTI continues to offer this service out of an obligation to provide low-cost internet access to the Gila River Indian Community.

capabilities. As a result, GRTI continues to dedicate significant financial resources to modernize and customize this 911 system to fit the unique needs of the Gila River Indian Community.

In order to maintain and improve upon these voice, broadband internet, and 911 services, GRTI will require continued and predictable federal support at or above existing funding levels.

II. TRIBAL LANDS NEED SUBSTANTIALLY MORE FINANCIAL SUPPORT FOR BROADBAND INFRASTRUCTURE AND SERVICES.

Broadband penetration rates on Tribal lands lag significantly behind the national average.⁴ These low penetration rates can, in part, be attributed to the unique challenges facing many Tribal lands. One such challenge is the high-build out costs of the infrastructure necessary to provide broadband service to residents on Tribal lands. Tribal lands are often located in rural, sparsely populated areas, significantly raising the cost per subscriber to build-out broadband networks. For example, the sparse population on the geographically large Gila River Indian Community and the fact that there are often significant distances between residences within the Gila River Indian Community increases GRTI's infrastructure build out costs. The Gila River Indian Community is located on 582 square miles of land and has less than 12,000 Native Americans living on the reservation. This low population density leaves little, if any, margin for profit for GRTI after recovery of its high costs of build-out and operations.

Another factor deterring investment in broadband services on Tribal lands is the limited financial resources of many Native Americans. According to the 2000 census, nearly 50% of families living in the Gila River Indian Community had incomes below the federal poverty line and more than 50% of the population was unemployed. Today, approximately 84% of GRTI's customers qualify for the FCC's Lifeline and Link-Up subsidy programs. As a result, even though GRTI offers bundled DSL internet service to many residences on the Gila River Indian

⁴ *National Broadband Plan* at 152.

Community, few residents are able to utilize this service due to their limited financial means. The resulting low usage rate creates an economic hurdle for capital investment in enhancements to and expansion of broadband services on Tribal lands.

In order to help overcome the challenges referenced above and to accelerate broadband adoption among the Native American population, financial support is required to deploy the necessary infrastructure to expand the availability of broadband services, as well as to provide discounts to Native American consumers to offset the high costs of these services.

III. INCREASED ACCESS TO BROADBAND WOULD BRING IMPORTANT BENEFITS TO NATIVE AMERICAN COMMUNITIES.

Increased access to broadband services offers economic benefits to the Native American community. Indeed, as the National Broadband Plan observes, “Like railroads and highways, broadband accelerates the velocity of commerce, reducing the costs of distance. Like electricity, it creates a platform for America’s creativity to lead in developing better ways to solve old problems. Like telephony and broadcasting, it expands our ability to communicate, inform and entertain.”⁵ Nowhere is the impact of broadband more profound than in rural areas such as Tribal lands.

However, as access to broadband increases at disparate rates among different groups of Americans, America faces an increase in an already wide technological divide. Tribal groups, in particular, would benefit immensely from increased access to broadband, yet, as discussed earlier, face daunting challenges in the availability and utilization of these services. Accordingly, the public interest would be served by taking steps to increase Native Americans’ access to broadband services and infrastructure. For example, such increased access would

⁵ *National Broadband Plan* at 19.

enable the construction of the necessary communications infrastructure to stimulate needed economic development for Native Americans living on Tribal lands.⁶

As discussed above, a significant portion of the population of the Gila River Indian Community lives below the federal poverty line, is unemployed, and qualifies for the FCC's Lifeline and Link Up subsidy programs.⁷ Funding to expand the deployment of broadband infrastructure for the Native American community, such as the Gila River Indian Community, will create jobs on Tribal lands held by mostly Tribal people during the expansion of existing infrastructure. More importantly, these funds will enable the deployment of infrastructure to extend access to broadband services and connectivity to residents and businesses in Native American communities. Increasing the availability of broadband services to Native American businesses will help level the playing field and enable them to compete with companies located in nearby metropolitan markets. Indeed, access to broadband service is essential for those living in the Gila River Indian Community. By narrowing the technological divide in this way, Native Americans will be better positioned to efficiently secure and provide goods and services.

IV. NEAR TERM REFORMS: (1) IMPLEMENT REFORMS TO LOWER THE COST OF BUNDLED DSL AND INTERNET SERVICE ON TRIBAL LANDS AND (2) CREATE A NATIVE NATIONS TRIBAL BROADBAND FUND.

GRTI believes that the Commission can take steps as early as 2012 that will help broadband providers on Tribal lands begin increasing the broadband penetration rate among Native Americans. First, the Commission can implement reforms to the current interstate access

⁶ Nat'l Cong. of Am. Indians, *Congress and the Federal Agencies Must Create the Native Broadband Fund, and Devote and Prioritize Funding and Resources to Provide Broadband in Native Communities and Include Native Governments in All Native Telecommunications Infrastructure and Broadband Policy Initiatives*, Res. #ABQ-10-061 (Nov. 14-19, 2010) (“[A]ccess to broadband service in poorly served areas will help bridge the technological divide, increase economic growth, and improve education, health care and the quality of life in these areas...”).

⁷ See *supra* at page 3.

charge and middle mile transport components of bundled DSL and internet service to lower the cost of such service when offered by Tribal Carriers. In addition, the Commission should create a Native Nations Broadband Fund that will help support the deployment of broadband infrastructure on Tribal lands. GRTI believes that both of these proposals are supported by the unique government-to-government relationship shared between federally-recognized tribes and the federal government.

A. The Commission Should Take Action to Enable GRTI to Lower the Price of Bundled DSL Internet Service on Tribal Lands.

GRTI urges the Commission to adopt approaches that will enable Tribal Carriers to lower the price of bundled DSL internet service to end-users on Tribal Lands over the short term. By lowering the price of high-speed internet service that is provided over existing infrastructure, the Commission will enable more people residing on Tribal lands to afford such service and thus increase connectivity among Native Americans. The Commission can bring about a price reduction through reforms to the current interstate access charge and middle mile transport components of this bundled service.

Statistics concerning high-speed internet penetration rates on Tribal lands are “familiar and depressing.”⁸ Indeed, even in those instances where access to bundled DSL and high-speed internet is available, such as on the Gila River Indian Community, penetration rates remain low when compared to national averages. One of the contributing factors to these statistics is the lack of affordable pricing of high-speed internet service on Tribal lands. Although Native Americans may have access to high-speed internet service, many cannot afford the price of such service. Another major factor that contributes to these low penetration rates is low digital

⁸ Howard Buskirk, *FCC Vows to Keep Focus on Communications in Indian Country*, COMM. DAILY, Mar. 4, 2011, at 3 (quoting FCC Chairman Julius Genachowski).

literacy rates on Tribal lands. As the National Broadband Plan notes, “[f]or non-adopters to find broadband valuable enough to subscribe, they need a basic knowledge of how to find and use trustworthy, substantive content.”⁹ Consequently, even if the Commission were to succeed in its goal of providing access to high-speed broadband on Tribal lands at download speeds of 4 Mbps, there is no guarantee that Native Americans living on Tribal lands would value such service enough to subscribe.

As a result, the Commission should take immediate steps to lower the cost of bundled DSL and internet service on Tribal lands. For those Native Americans that cite price as their reason for non-adoption, a lower price will reduce or eliminate their barrier to adoption of high-speed internet. Further, a lowered price of service is also likely to encourage adoption among many of those who cite lack of digital literacy skills as their barrier to adoption. If broadband prices fall, “consumers might be more willing to try it, in spite of doubts about its relevance or their own abilities to use it.”¹⁰ In addition, once such service is available in the home, subscribers are likely to develop and hone their digital literacy skills. Therefore, once access to higher-speeds becomes available in the long-term after the deployment of broadband infrastructure, these subscribers may value such services enough to pay higher prices for higher speeds.

GRTI believes that the current high cost of its bundled DSL and internet service serves as a barrier for adoption on the Gila River Indian Community. For example, in order to avoid operating at a loss, GRTI can only afford to offer residential high-speed DSL (1.5 Mbps) and internet service at \$52.90 under the current cost recovery mechanisms available through the Commission and the National Exchange Carrier Association (“NECA”). Compared to the \$31

⁹ *National Broadband Plan* at 170.

¹⁰ *National Broadband Plan* at 170.

per month that the average American household spends on internet access services,¹¹ this rate is excessive for a basic speed (1.5 Mbps) DSL Service. Moreover, with many residents of the Gila River Indian Community living below the poverty line, GRTI is unlikely to realize any increase in its current high-speed internet penetration rate of 22% without some type of action by the FCC to help lower bundled DSL and internet service rates to approximately \$19.99 per month for 1.5 Mbps DSL service.

The Commission could help Tribal Carriers lower bundled DSL and internet prices to \$19.99 per month by adopting reforms to the current interstate access charge and middle mile transport components of this bundled service. First, GRTI proposes that the Commission waive the interstate access charge that Tribal Carriers must pay under NECA's Tariff No. 5 for the provision of DSL on Tribal lands.¹² Second, the Commission should provide Tribal Carriers a discount on middle mile transport component costs (a "Middle Mile Transport Tribal Rate") of the bundled service. These two actions, waiver of the interstate access charge and a discounted Middle Mile Transport Tribal Rate, will allow Tribal Carriers to offer more affordable bundled DSL and internet service on Tribal lands.¹³

By way of background, GRTI is a member of NECA. As a result, GRTI charges its customers Tariff No. 5 rates for DSL service, and, in turn, GRTI pays these rates into NECA's pool. Under the current tariff, these rates are \$11.68 per line per month. However, a waiver of the interstate access charge that GRTI pays into NECA's pool for DSL on Tribal lands would

¹¹ Industry Analysis and Technology Division, Wireline Competition Bureau, *Trends in Telephone Service*, at 3-4 (Sept. 2010).

¹² GRTI has held informal discussions with NECA about establishing a reduced interstate access charge for Tribal Carriers providing DSL. Rather than establishing a separate interstate access charge, NECA representatives suggested that GRTI and other Tribal Carriers seek from the FCC a waiver of the interstate access charge for DSL on Tribal lands.

¹³ All other terms and conditions that are currently included in NECA's Tariff No. 5 would continue to apply (including wholesale pricing, etc.).

allow GRTI to lower the price of bundled DSL and internet service by more than 20%. In addition, a significant portion of GRTI's costs associated with providing this bundled service lies in its middle mile transport component costs. Therefore, GRTI supports the Commission's proposal to provide additional support for middle mile costs.¹⁴ By providing a reduced Middle Mile Transport Tribal Rate, Tribal Carriers will be able to pass the resulting savings on to the end-users residing on Tribal lands.

These proposed reforms, and associated price reductions, will help increase penetration rates on Tribal lands in the near term. In turn, increased penetration rates will lead to increased digital literacy in the community. As a result, when high-speed broadband infrastructure buildout is complete, Native Americans residing on Tribal lands will be better situated to maximize the benefits of access to such broadband speeds.

B. The Commission Should Create a Permanent Native Nations Broadband Fund to Support the Deployment of Broadband Infrastructure on Tribal Lands.

GRTI urges the Commission to create a Native Nations Broadband Fund among the reforms being adopted to the USF program to support the deployment of broadband infrastructure on Tribal lands.¹⁵ The Native Nations Broadband Fund would serve as a final

¹⁴ See *USF/ICC Reform NPRM* at ¶ 395.

¹⁵ The *National Broadband Plan* originally proposed the creation of a Native Nations Broadband Fund to support sustainable broadband deployment and adoption on Tribal lands. See *id.* at Recommendation 8.18. In addition, the Commission recently released a Notice of Inquiry seeking comment on the creation of a Native Nations Broadband Fund. *Improving Communications Services for Native Nations*, Notice of Inquiry, FCC 11-30 at ¶¶ 9-11 (rel. Mar. 4, 2011) ("*Improving Communications Services NOI*"). While GRTI intends to file comments in response to the *Improving Communications Services NOI*, GRTI urges the Commission here to establish the Native Nations Broadband Fund simultaneously with any reforms to the USF and intercarrier compensation system. As discussed herein, see *supra* Section IV.A., proposals contained within the *USF/ICC Reform NPRM* may have dire financial consequences for GRTI.

safety net for Tribal Carriers providing broadband on Tribal lands. By offering the financial and regulatory certainty needed to attract investment in broadband on Tribal lands, the Native Nations Broadband Fund would encourage a meaningful incentive for the deployment of such infrastructure.

GRTI, like many Tribal Carriers, relies on loans from the United States Department of Agriculture's Rural Utility Service ("RUS") to help finance the deployment of broadband infrastructure in its network. Pursuant to the terms of RUS' loan program, recipients are required to meet certain financial benchmarks to demonstrate their ability to pay the interest on its loan. The financial benchmark employed by RUS is known as the Times Interest Earned Ratio ("TIER"). At a very basic level, a company's TIER is determined by dividing the company's earnings by the total interest payable on their RUS loan. Thus, the larger the company's TIER, the greater the company's ability to meet its loan obligations.

GRTI proposes that the Native Nations Broadband Fund serve as a safety net to ensure that Tribal Carriers meet their TIER obligation. Therefore, support would be granted in those instances in which a provider's projected annual revenue requirement, i.e., the revenue necessary for the provider to meet its RUS TIER requirement, exceeds the projected annual revenues of the provider. Revenues would include all monies received from the provision of communications services, including but not limited to end user revenues, other USF support, and revenues from FCC or state public utility commission approved individual tariffs or revenue pooling arrangements. Support would be subject to an annual true-up at the conclusion of each fund year.

The existence of the Native Nations Broadband Fund may be the only solution available to enable GRTI to continue to provide critical services to the Gila River Indian Community.

As discussed herein, Native Americans face unique challenges both in providing and accessing broadband services on Tribal lands, including high-build costs, high service costs, limited financial resources, and low adoption rates. Moreover, access to broadband service would bring important public benefits to many Native American communities. The Native Nations Broadband Fund should be part of the USF program and administered by the Universal Service Administrative Company. The Commission has the authority to create the Native Nations Broadband Fund pursuant to Sections 214 and 254 of the Communications Act. Importantly, the Native Nations Broadband Fund will further the Commission's policy to promote a government-to-government relationship with federally-recognized Tribes.

C. The Proposed Reforms to the Intercarrier Compensation Mechanism and the Creation of a Native Nations Broadband Fund Are Constitutionally Sound.

The proposed reforms to the intercarrier compensation mechanism for the provision of DSL on Tribal lands and the creation of a Native Nations Broadband Fund rests on sound footing due to the principle of government-to-government interaction. The Commission has long recognized that Native American Tribes are inherently sovereign governments that enjoy a unique relationship with the federal government.¹⁶ As domestic dependent nations with inherent sovereign powers over their members and territory, federally-recognized Tribes interact with the Commission not as representatives of an ethnic or religious group, but as sovereign nations. On these grounds, the Commission previously has tailored its approach on certain issues to take into account the unique situations facing Native American Tribes.¹⁷

¹⁶ See Statement of Policy on Establish a Government-to-Government Relationship with Indian Tribes, *Policy Statement*, 16 FCC Rcd 4078 (2000); see also *Mobility Fund NPRM* at ¶ 33.

¹⁷ See e.g., Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, *First Report and Order and Further Notice of Proposed Rulemaking*, 25

The proposed reforms to the intercarrier compensation mechanism for the provision of DSL on Tribal lands and the creation of the Native Nations Broadband Fund are based on the recognition, consistent with the FCC’s statutory mandate, of the sovereign rights and responsibilities of federally-recognized Tribes. Consistent with Supreme Court precedent, the proposed reforms and fund would be conferred upon Tribes and their members “not as a discrete racial group, but, rather, as members of quasi-sovereign tribal entities whose lives and activities are governed by the [Bureau of Indian Affairs] in a unique fashion.”¹⁸ Indeed, the recognition of Tribes, Tribal members and their instrumentalities, including Tribally-owned businesses, as politically classified for special rights and special treatment dates back to the Constitution itself and the power of the Federal government to regulate Commerce between the United States and the various Tribes.¹⁹ Targeted support not only advances the Commission’s relationship with, and responsibility to, Tribes but also furthers the Commission’s policy of promoting Tribal self-sufficiency and economic development. In short, GRTI believes that is appropriate to provide such reforms and fund on the basis of the government-to-government relationship between the FCC and federally-recognized Tribes.²⁰

FCC Rcd 1583 (2010) (establishing a Tribal priority policy in the broadcast radio licensing processes); *see also* FCC Establishes FCC-Native Nations Broadband Taskforce and Seeks Nominations for Tribal Representatives, *Public Notice*, DA 10-1008 (rel. Jun. 2, 2010); *National Broadband Plan* at 184 (“The FCC should create an FCC-Tribal Broadband Task Force consisting of senior FCC staff and elected Tribal leaders or their appointees to carry out its commitment to promoting government-to-government relations.”).

¹⁸ *Morton v. Mancari*, 417 U.S. 535, 554 (1974).

¹⁹ U.S. Const. Art. I, § 8, cl. 3.

²⁰ *National Broadband Plan* at 146 (“This government-to-government relationship warrants a tailored approach that takes into consideration the unique characteristics of Tribal lands in extending the benefits of broadband to everyone.”).

V. LONG-TERM REFORM: THE COMMISSION SHOULD INCENTIVIZE INVESTMENT IN BROADBAND INFRASTRUCTURE BY SUBSTITUTING WIDEBAND-CAPABLE CATEGORIES FOR CATEGORY 4.13 IN THE CURRENT HIGH COST LOOP SUPPORT FORMULA.

Rather than promoting broadband deployment and adoption in the Gila River Indian Community, proposals in the *USF/ICC Reform NPRM* would have severe and adverse economic impacts on GRTI's ability to continue its current level of basic telephone and DSL services. GRTI estimates that it could experience a decrease in revenues of approximately \$2 – \$3 million per year between 2012 and 2015 if the FCC's current proposals to reduce High Cost Loop Support ("HCLS") and eliminate safety net additive support, local switching support ("LSS"), and intercarrier access revenues are adopted. As a consequence, GRTI would have to curtail, limit, or possibly shut down its current voice and DSL service. Such a result would have the effect of halting all progress by GRTI in increasing broadband penetration in the Gila River Indian Community. Further, the significant financial strain imposed upon GRTI by such action could jeopardize GRTI's current voice and internet service offerings. As the only provider of wireline voice and internet services for the Gila River Indian Community, a reduction or cessation of these services would have dire consequences for this community.

The majority of GRTI's potential losses would occur as a result of reductions in or eliminations to the Universal Service Fund mechanisms. The *USF/ICC Reform NPRM* proposes to take three actions with respect to USF (collectively, the "Proposed USF Reductions") which will be detrimental to GRTI. First, the FCC proposes to decrease the current 65% and 75% expense adjustment formula support percentages for HCLS to 55% and 65%, respectively. Second, the FCC proposes to eliminate the safety net additive support and LSS. Finally, the FCC proposes to impose caps on reimbursable capital and operating costs, including the elimination of support for corporate overhead expenses. Cumulatively, GRTI estimates that it could lose more than \$1.3 million in USF support in 2012 as a result of these proposals. Further,

these losses could increase to almost \$2.5 million by 2015 due to the delayed implementation timeline of some of these proposals. In addition to the loss of USF support, GRTI estimates that it could lose more funding due to proposed reforms of the intercarrier compensation system. Specifically, the FCC's proposal to eliminate intrastate and interstate access charges alone could cost GRTI more than \$750,000 annually.

As a small carrier providing voice and internet service to an economically challenged population, GRTI will not be able to pass along the amount of these losses to its customers in the form of increased pricing. Consequently, GRTI will be forced to take drastic actions, including, but not limited to, a possible reduction or curtailment in services. Specifically, the mere threat of lost funding at the levels estimated herein will force GRTI to scale back its current efforts to increase the broadband penetration rate in the Gila River Indian Community. Therefore, GRTI strongly opposes the Proposed USF Reductions.

As an alternative to the Proposed USF Reductions, GRTI recommends that the Commission slightly modify the current HCLS formula by substituting wideband-capable categories for Central Office Equipment Category 4.13 ("Category 4.13"). Such a modification to the current HCLS formula would create incentives for small, rural rate of return carriers like GRTI to invest in broadband infrastructure. Further, GRTI believes that this proposal, if implemented correctly, could provide a glide-path for transition from narrow-band infrastructure to wide-band infrastructure.

The current USF formula is largely driven by subscriber-related Cable and Wire Facilities Category 1 ("Category 1") and Category 4.13. While Category 1 loop plant often has the capability of carrying most broadband services, Category 4.13 equipment is often comprised of analog/voice-only narrow-band technologies. GRTI proposes for the FCC to gradually substitute

Category 4.13 costs with Central Office Equipment Category 4.11 (“Category 4.11”) and other wide-band capable categories within the current HCLS formula. For example, in each year between 2012 and 2020, the FCC could gradually increase the weight accorded to Category 4.11 costs in the HCLS formula while gradually decreasing the weight accorded to Category 4.13 costs. This glide-path transition would allow those carriers that do not have much broadband-capable plant in their current network to continue investing in this infrastructure without suffering near term revenue shortfalls.

For the avoidance of doubt, the current 65% and 75% expense adjustment formula support percentages should be retained in this reformed HCLS formula proposal. GRTI, like many rate of return carriers, is still in the broadband build-out phase. Thus, decreasing the thresholds would threaten the economic viability of carriers that are in the process of building out their networks. Further, GRTI opposes a cap on the HCLS fund under this proposal. As many carriers will be building out broadband networks under this proposal, capping the HCLS fund would create a catch-22 for those rate of return carriers relying on support during the transition. Greater investment in broadband infrastructure will not be realized if carriers are provided limited financial incentives to deploy such networks.

However, in order to realize greater efficiencies, GRTI supports capping the total HCLS per line that any one carrier can receive, absent exceptional circumstances. As the *USF/ICC Reform NPRM* accurately notes, the current HCLS formula as presently constituted concentrates HCLS among the carriers with the highest costs per loop at the expense of those carriers with high loop costs that nonetheless are relatively low when compared to the highest cost categories.²¹ GRTI believes that a cap on the total high-cost loop support per line that any one

²¹ *USF/ICC Reform NPRM* at ¶ 177.

carrier can receive will help increase efficiency during infrastructure deployment. Further, GRTI proposes to allow equipment that is both voice and broadband-capable to qualify under Category 4.11. GRTI believes that economy and efficiency dictate the retirement of only that equipment which is not capable of providing broadband services.

VI. THE *USF/ICC REFORM NPRM* CONTAINS SEVERAL FUNDAMENTALLY FLAWED PROPOSALS.

Despite the promised benefits of increased broadband deployment and access in the Gila River Indian Community, several of the proposals contained in the *USF/ICC Reform NPRM* will not further the deployment of broadband to the Gila River Indian Community. Specifically, the National Broadband Map, as currently constituted, is an unsuitable tool to identify unserved areas eligible for Connect America Fund (“CAF”) support because the current data on broadband deployment on Tribal lands is not adequate. In addition, the Commission’s proposal to use reverse auctions as a means to provide CAF support are likely to result in a degradation of broadband service on Tribal lands and should not be adopted as proposed.

A. The Commission Cannot Rely on the National Broadband Map, as Presently Constituted, to Identify Unserved Areas Eligible for CAF Support.

GRTI opposes the Commission’s proposal to use the National Broadband Map, as presently constituted, as a means of identifying unserved areas eligible for CAF support.²² The Gila River Indian Community, as well as countless other federally-recognized Indian tribes, did not provide information regarding broadband deployment on its territory for inclusion in the National Broadband Map. Consequently, the National Broadband Map is not currently an appropriate tool for the Commission to identify unserved areas, at least insofar as Tribal lands are concerned, because it does not accurately capture broadband deployment on Tribal Lands.

²² *USF/ICC Reform NPRM* at ¶ 291.

As domestic dependent nations with inherent sovereign powers over their members and territory, federally-recognized Tribes interact with the federal government not as representatives of an ethnic or religious group, but as sovereign nations. Accordingly, States do not exercise any ability to control or regulate the activity of federally-recognized Tribes. The National Broadband Map was created by the National Telecommunication and Information Administration (“NTIA”) using data that each State, territory and the District of Columbia collected from broadband providers. Given the Gila River Indian Community’s status as a sovereign nation, the State of Arizona did not have any authority to require GRTI to provide data on broadband deployment on the Gila River Indian Community.²³ Further, the State of Arizona did not offer GRTI or the Gila River Indian Community any assistance or resources, financial or otherwise, to collect such data. As a result, the Gila River Indian Community and other similarly situated Indian tribes did not participate in the development of the National Broadband Map because they did not provide any data relating to broadband deployment on their Tribal lands.

Not surprisingly, data in the National Broadband Map is incorrect with respect to the Gila River Indian Community. For example, Gila River Indian Community’s District 1 multi-purpose building is located at 15747 N. Shegoi Road, Blackwater, AZ. According to the National Broadband Map, the only wireline service provided to this address is GRTI’s DSL at download speeds between 3 and 6 Mbps.²⁴ However, this data is incorrect. The District 1 multi-purpose building is one of the buildings on the reservation that has recently been wired for internet service using fiber technology. This fiber technology is capable of delivering download speeds of up to 1 Gbps. Therefore, the National Broadband Map has incorrect data with respect to

²³ Moreover, the State of Arizona did not offer any financial support for the collection of such data.

²⁴ See Exhibit 1.

broadband technology and speeds. To make matters worse, the National Broadband Map also has the incorrect name of the service provider. The Gila River Indian Community's Management Information Systems, a government entity, provides fiber broadband service to the District 1 Multi-purpose building. Data for this address was provided by the Arizona Government Information Technology Agency ("AZ GITA"), a state agency that has no jurisdiction over the Gila River Indian Community and, to the best of GRTI's knowledge, never confirmed this information with GRTI or any other entity within the Gila River Indian Community. In fact, GRTI has no idea how AZ GITA obtained this incorrect data, but such information was not provided by GRTI.

It is well established that data on broadband deployment on Tribal lands generally is not available.²⁵ It is equally unquestioned "that communities on Tribal lands have historically had less access to telecommunications services than any other segment of the population."²⁶ Therefore, utilizing a flawed data set, such as the National Broadband Map, that does not accurately reflect actual broadband availability on Tribal lands will not help the Commission achieve the *National Broadband Plan's* goal of closing the digital divide. Rather, the Commission needs to supplement the National Broadband Map with complete and accurate data on the status of broadband deployment on Tribal lands. Presently, GRTI lacks the funds and resources to collect this much needed data. At the same time, GRTI and the Gila River Indian Community, with the necessary financial support and resources, is best positioned to provide

²⁵ See National Broadband Plan at Box 8-4 ("Available data, which are sparse, suggest that less than 10% of residents on Tribal lands have broadband available."). See also GAO, Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands 10, GAO-06-189 (2006) ("the rate of Internet subscribership [on Tribal lands] is unknown because no federal survey has been designed to capture this information for Tribal lands.").

²⁶ National Broadband Plan at Box 8-4, quoting Extending Wireless Telecommunications Services to Tribal Lands, WT Docket No. 99-266, Report and Order and Further Notice of Rule Making, 15 FCC Rcd 11794, 11798 (2000).

such data. Only when data is submitted by Tribes to the Commission (or NTIA) and accurately reflected in the National Broadband Map can this tool be used to address the needs of Tribal lands.

B. Reverse Auctions Will Result in Subpar and Unacceptable Service Levels on Tribal Lands.

GRTI opposes the Commission's proposal to use reverse auctions as a means to award CAF support on Tribal lands.²⁷ Reverse auctions are likely to favor large, national providers that may underbid in order to obtain federal support. Instead, the Commission should award federal support to those carriers that can demonstrate a familiarity and commitment to Tribal lands.

Opposition to reverse auctions by tribal groups is already a matter of record in this proceeding.²⁸ GRTI, like many tribally-owned telecommunications providers, fears that reverse auctions will result in the deployment of networks that offer lower quality and reliability than what is needed on Tribal lands. Historically, large incumbent local exchange carriers ("ILECs") serving Tribal lands have neglected to provide certain services and failed to make sufficient investments in infrastructure necessary to serve those residing on Tribal lands. For example, the telephone penetration rate in the Gila River Indian Community was only 10 percent before GRTI acquired the local telephone exchange from US West, a large ILEC.

As an alternative to reverse auctions on Tribal lands, GRTI proposes for federal support on Tribal lands to be awarded to those carriers that can demonstrate a familiarity and commitment to Tribal lands. As noted in the *National Broadband Plan*, the provision of broadband on Tribal lands is complicated not only due to the unique geographic characteristics

²⁷ *USF/ICC Reform NPRM* at ¶¶ 284, 406-421.

²⁸ See Comments of National Tribal Telecommunications Association, WC Docket No. 10-90, July 12, 2010, pg. 7.

of these areas, but also due to the unique needs of the people residing on Tribal lands.²⁹ Indeed, a tribe's cultural, spiritual, economic, and public safety needs are significant factors in network planning and deployment and the provision of broadband services. Providing financial support to the carriers familiar and committed to Tribal lands will not only help ensure that the needs of the Native American communities are met at present, but also will make certain that broadband service providers maintain a connection with the communities and continue to serve those communities with high-quality broadband services in the future.

In addition, GRTI's proposal will help ensure the financial viability of Tribal Carriers that serve as a model of success to other tribes. There are only eight Tribal Carriers serving Indian country out of 564 federally recognized Tribes, and these carriers consistently have outperformed telephone and broadband penetration rates as compared to those rates on other Tribal lands. For example, the broadband penetration rate on the Gila River Indian Community is 22%, more than double the national average penetration rate on Tribal lands.³⁰ In many respects, tribal governance of GRTI has allowed this ILEC to identify and meet the needs of its subscribers. Ensuring that Tribal Carriers receive future financial support will not only allow GRTI to better serve the residents of the Gila River Indian Community, but will also serve as a model of success for other Tribes interested in providing its members with broadband services.

VII. CONCLUSION.

GRTI supports the FCC's effort to increase the availability of broadband service to Native Americans residing on Tribal lands. By adopting reforms proposed herein to the lower the costs of bundled DSL and internet service on Tribal lands and creating a Native Nations

²⁹ *National Broadband Plan* at 179.

³⁰ *National Broadband Plan* at 23 (stating that "fewer than 10% of residents on Tribal lands have terrestrial broadband available.").

Tribal Broadband Fund within the current USF program, the Commission will help increase broadband penetration rates and ensure the financial viability of Tribal Carriers. In addition, GRTI's proposed long-term reforms to the current HCLS formula will provide a glide-path for transition from narrow-band infrastructure to wide-band infrastructure.

Respectively Submitted,

Gila River Telecommunications, Inc.

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April 18, 2011

Exhibit 1

15747 n. shegoi road, blackwater, az

FIND

Search Results: Broadband Providers for this Area

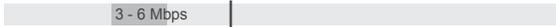
The list below contains broadband providers that have reported offering service to all or part of **the area that is shaded on the map to the right**. Providers are listed in order of **maximum speed advertised** by the provider. To see more information about each provider, click on an individual service provider's name or click the Expand All button. Help improve this data by confirming the availability and speed information. This dataset is updated approximately every six months and your input is important to us.

[Show All](#) • [Show Wired](#) • [Show Wireless](#)

[Expand All](#)

Advertised Speeds Above 3 Mbps

Data as of: 6/30/10

Gila River Telecommunications, Inc. 

[Link to Website](#)

Download between 3 - 6 Mbps using DSL (Asymmetric)
Upload between 200 - 768 Kbps using DSL (Asymmetric)

- Data Review
- Source

Confirm this provider serves here
 Yes No

Advertised Speeds Above 768 Kbps and Below 3 Mbps

Data as of: 6/30/10

Most Common Speed: 10 Mbps 

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Satellite is also available in most areas. [Click here to read more](#)

Is your broadband provider listed? If not, please enter the provider below

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posted by NTIA on March 18, 2011

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