

# Tanana Chiefs Conference

## Chief Peter John Tribal Building

122 First Avenue, Suite 600  
Fairbanks, Alaska 99701-4897  
(907) 452-8251 Fax: (907) 459-3850

### SUBREGIONS

January 17, 2012

#### UPPER KUSKOKWIM

McGrath  
Medfra  
Nikolai  
Takotna  
Telida

### VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary

#### LOWER YUKON

Anvik  
Grayling  
Holy Cross  
Shageluk

Federal Communications Commission  
445 12 Street SW  
Washington, D.C. 20554

#### UPPER TANANA

Dot Lake  
Eagle  
Healy Lake  
Northway  
Tanacross  
Tetlin  
Tok

**Re: Tanana Chiefs Conference Comments, Report and Order and Further Notice of Proposed Rule Making: 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 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; Universal Service Reform – Mobility Fund, WT Docket No. 10-208**

#### YUKON FLATS

Arctic Village  
Beaver  
Birch Creek  
Canyon Village  
Chalkyitsik  
Circle  
Fort Yukon  
Venetie

Dear Ms. Dortch,

#### YUKON KOYUKUK

Galena  
Huslia  
Kaltag  
Koyukuk  
Nulato  
Ruby

Tanana Chiefs Conference (TCC) is a Tribally operated regional non-profit consortium representing 42 Tribes and Tribal organizations of Interior Alaska. TCC's primary mission is to promote Tribal self governance and self determination, enhance social and economic development in the region, and provide health care and social services to over 16,000 Tribal beneficiaries. The TCC service area is massive, covering over 178,000 square miles in size, an area greater in size than the state of California.<sup>1</sup> With the exception of seven road accessible communities, nearly all of the TCC Tribal communities are isolated and accessible only by small aircraft, river boat, snow machine or dog team. Investment in broadband infrastructure is limited exclusively to inferior satellite middle-mile because of the high cost of traversing Alaska's difficult terrain. None of the rural TCC communities have access to acceptable broadband services delivered by robust terrestrial middle mile infrastructure, a fact that impacts the

#### YUKON TANANA

Alatna  
Allakaket  
Evansville  
Fairbanks  
Hughes  
Lake  
Minchumina  
Manley Hot  
Springs  
Minto  
Nenana  
Rampart  
Stevens Village

economic, physical and educational well-being of these rural communities. No entity, public or private, has invested in the infrastructure necessary to put rural TCC Tribal communities on a level playing field with the rest of the state and the nation.

Perhaps the greater tragedy beyond not having broadband is the seemingly overwhelming health and socioeconomic problems plaguing the TCC region. In 2008, the age adjusted suicide rate for Alaska Natives in the region was three times the National rate at 33.7 per 100,000 and is the leading cause of death among young adults in the 15-24 age group.<sup>2</sup> Diabetes among Alaska Natives is nearly two-times the National rate.<sup>3</sup> In addition, the seasonally adjusted unemployment rate in Interior Alaska communities routinely tops twenty percent.<sup>4</sup> For those families fortunate to have a member with steady work, the per capita annual income is 82% of the National per capita income.<sup>5</sup> Lower rates of income compounded with extremely high cost retail goods such as \$6.00 per gallon gasoline and \$8.00 per gallon of milk results in the net real effect of lower amounts of disposable income and nearly non-existent personal wealth generation in TCC rural villages. Despite seemingly overwhelming problems, there is hope.

TCC is generally pleased with the commission and commends their efforts to affect the build out of broadband into rural and Tribal areas of the Nation. TCC recognizes that change is needed as current Universal Service Fund (USF) High Cost and Low Income policy is not incentivizing the build out of advanced broadband and mobile networks into extreme rural areas of the Nation. TCC also recognizes the difficulties USF and Intercarrier Compensation (ICC) reforms will impose; however, in the end the hope is that proposed reforms will result in a better connected Nation that includes Tribal lands that can thrive in a globally connected era. In

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<sup>1</sup> State and County Quick Facts, U.S. Census Bureau, <http://quickfacts.census.gov/qfd/index.html>

<sup>2</sup> Injury Prevention Program, and Alaska Native Epidemiology Center. Alaska Native Injury Atlas of Mortality and Morbidity. Anchorage: Alaska Native Tribal Health Consortium, 2008

<sup>3</sup> Division of Diabetes Treatment and Prevention, Indian Health Service, [http://www.ihs.gov/MedicalPrograms/Diabetes/index.cfm?module=resourcesFactSheets\\_AIANs08](http://www.ihs.gov/MedicalPrograms/Diabetes/index.cfm?module=resourcesFactSheets_AIANs08)

<sup>4</sup> Department of Labor and Workforce Development, Research and Analysis, State of Alaska, <http://labor.state.ak.us/research/labforce/labforce.htm>

<sup>5</sup> Department of Labor and Workforce Development, Research and Analysis, State of Alaska, <http://labor.alaska.gov/research/income/income.htm>

addition, TCC is convinced that many, if not all of the socioeconomic, health care, public safety, education and cultural preservation challenges impacting the TCC region can be addressed in a meaningful way with the deployment of ubiquitous and affordable broadband technology to homes and anchor institutions. Although hopeful, TCC has comments and concerns with respect to the Further Notice of Proposed Rule Making (FNPRM). Specifically, TCC would like to comment on the following:

- Timing of reforms, do no harm
- Tribal Consultation
- Tribal ETC's
- Mobility Fund Performance Obligations
- Mobility Fund Priority Units
- Remote Areas Fund

**A. Timing of reforms, do no harm.** As stated above, TCC is generally pleased with the intent of the proposed USF and ICC reforms. However, TCC is concerned with the proposed timing of USF and ICC reforms and the potential negative impact on Alaska carriers. TCC agrees with the Alaska Rural Coalition's December 29, 2011 petition for reconsideration concerning the time-phased implementation of elimination of identical support on the grounds that 1) it is not fair for Competitive Eligible Telecommunications Carriers (CETC's) to receive an extra two years to adopt the rule and 2) how any uncertainty in the distribution of Connect America Funds (CAF) or Mobility Funds could impact private investment in broadband services in rural Alaska.<sup>6</sup> Although TCC is pleased with the intent of the Commission's order, there is a raised level of anxiety that potentially recklessly implemented provisions of USF and ICC reforms could put high cost support and subsequent telecommunications services such as basic telephone service in our remote villages at grave risk. TCC respectfully requests the

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<sup>6</sup> See Petition for Reconsideration from Shannon M. Heim, counsel to Alaska Rural Coalition, to Marlene H. Dortch, Secretary, FCC (filed December 29, 2011)

Commission make special consideration for rural Alaska to level the playing field and reduce the likelihood of serious unintended consequences.

**B. Tribal Consultation.** TCC and many other Tribes across the Nation appreciate the sincere commitment of the Commission to Tribes and Government to Government consultation. Initiatives like the formation of the Native Nations Broadband Task Force create a direct access conduit to policy makers who make critical decisions impacting Tribal self governance and self determination. Likewise, TCC holds fast the opinion that telecommunications providers wishing to build or upgrade infrastructure on or across Tribal lands must consult with Tribal governments. Consultation is important because telecommunications services are critical components of community infrastructure in many rural Alaska villages because many villages are not connected to the highway system, because many villages do not have regular air carrier services and because of near-term risks of losing bypass mail and regular postal services, telecommunications services, even basic telephone service is the only continuously available and accessible service that connects isolated rural villages in real-time to services that can sometimes be the difference between life and death. It's arguable that if an interstate highway system, pipeline or railroad was planned to traverse communities in urban or suburban areas of the Nation, there would be extensive input and comment from local stakeholders. Tribal stakeholders deserve the same degree of consultation because of the relative importance of communications services to Tribal communities in rural areas of the Nation is the same as the design and build of an interstate highway system or pipeline in an urban areas of the Nation. The FNRPM outlines requirements for consultation by service providers and TCC agrees in principle with the FNRPM concerning consultation. TCC also recognizes that many of the ILEC's and CETCs serving rural Alaska villages have already established sincere and enduring relationships with Tribes. TCC also recognizes the potential for consultation to create an unnecessary administrative burden. TCC is not suggesting the Commission waive the

requirements for consultation, but consider other mechanisms that could serve as proxy for the requirements.

As the Wireline Competition Bureau and Office of Native Affairs and Policy begin the process of defining the Tribal consultation processes, we respectfully request the Commission consider a specific rule that requires consultation between the Commission's enforcement bureau and the affected Tribal organization before levying enforcement actions on a telecommunications carrier. Due to the strained financial circumstances communications carriers endure to provide services to Tribal lands, any enforcement action, especially financial penalties could jeopardize even basic telecommunications services.

**C. Tribal ETC's.** The FNPRM outlines considerations for Tribally owned ETC's. TCC supports the principle of participation of Tribally owned ETC's and the 25% bidding credit in the general and Tribal Mobility Fund auctions. TCC assumes the proposed practice of allowing Tribal organizations that have applied for ETC status but have not yet been designated an ETC will result in greater Tribal ownership and deployment of fixed and mobile broadband systems. TCC is concerned that the 25% bidding credit may not be enough to ensure Tribal ownership in some areas of the Nation, as many of the larger National carriers have far greater financial resources and can achieve greater economies of scale. TCC respectfully requests the Commission maintain vigilance in the bidding process and investigate any aggressive pricing strategies or anti-competitive behavior that would unfairly exclude Tribal organizations from participation as ETC's.

**D. Mobility Fund Phase I and II Performance Obligations.** TCC understands the limitations of satellite communications as a middle-mile backhaul mechanism and the realistic ability of satellite service to deliver true 3G or 4G mobile broadband. TCC believes the commission should allow for short-term performance waivers for providers relying on satellite back haul. However, continued support should be contingent on meaningful Tribal consultation

and provider obligations to build out high-speed terrestrial middle mile networks where technically and economically feasible. One way the Commission could help resolve the satellite middle mile problem in many of Alaska's rural villages is to examine all of the disaggregated satellite services being supported by other USF programs and examine the technical and economic feasibility of aggregating all of the USF supported satellite service in individual Tribal communities, whether directly or indirectly supported by USF, into a single terrestrial middle mile service. TCC believes conversion from expensive and poor performing satellite middle-mile services to better performing terrestrial microwave or fiber optic middle mile services is less of a technical problem and more of a long-term economic efficiency problem. In the long term, increasing demand and continued use of satellite services as carrier-class middle-mile back haul is not the best use of scarce public economic resources. Above all, the Tribes of Interior Alaska do not want to be relegated indefinitely to second class service.

**E. Mobility Fund Priority Units.** TCC believes there should be a priority preference for new mobile broadband deployments; the approach should be tailored to prefer areas that currently have no 3G or 4G mobile broadband service. In addition, the FNPRM requested comments on GCI's proposal that priority units be given to areas that do not have access to the national highway system. Like many Tribal areas of Alaska, the great majority of TCC's Tribes have no access to the National highway system. Priority mechanisms that weigh or take into consideration access to the National highway system will automatically create a disadvantage for rural Alaskan Tribes. To level the playing field, TCC suggest the commission use an alternative mechanism for rural communities with no access to the highway system. One possible mechanism is to account for and assign preference based on the distance in straight-line miles or culturally relevant traditional river miles to the nearest available and capable terrestrial middle mile infrastructure. Another mechanism may be to account for Tribal areas that are under waiver

consideration for either the CAF 4Mbps/1Mbps standard or the Mobility Fund 3G or 4G standards.

With respect to allocating priority units on Tribal lands, TCC is concerned that regardless of how priority units are aggregated or how a 20 to 30 percent priority allocation is awarded there may still not be enough priority points to score rural TCC villages high enough to receive a priority consideration for the Mobility Fund or Tribal Mobility Fund. Many of the TCC villages have fewer than 200 residents, some have less than 50 residents and all villages generally occupy a few co-located census blocks which occupy only a few square miles of land. The distance between Tribal villages will not permit the aggregation of priority units between disparate Tribes. TCC requests the Commission consider prioritizing Alaska Tribal areas for higher weighted priority support from the Remote Areas Fund where extremely isolated and low population density Tribes cannot compete effectively with Tribal priority units in the Mobility Fund auctions.

The NPRM also solicited comments on whether or not Alaska Tribal lands should receive the same funding opportunities as Tribal lands in the rest of the nation. TCC's response is at least yes, they should receive at least the same consideration. However, there needs to be some accounting for the unique challenges of service delivery to rural Alaska Tribes and villages. The FNPRM suggested the possibility of a set aside or Alaska specific adjustment for the Tribal component of Mobility Fund Phase II. Without a doubt, the cost per capita to deliver 3G or 4G mobile broadband service to rural Alaska villages will be more than the cost per capita to build similar services to Tribal lands in the rest of the Nation. TCC suggests either 1) a to be determined set aside be made available to accommodate unique Alaska deployment challenges or 2) that Alaska Tribes and villages not competitive in the Mobility Fund auction process be given a substantial advantage to accessing the Remote Areas Fund as a mechanism to ensure Tribal lands in Alaska can be competitive in the Tribal Mobility Fund mechanism. TCC

recognizes that the Remote Areas Fund is a component of the Connect America Fund mechanism, however TCC also recognizes the primary cost element that would make an Alaska Tribal area non competitive in the Mobility Fund mechanism is the satellite service supporting middle-mile backhaul.

**F. Remote Areas Fund.** TCC is pleased with the Commission's dedication of \$100 million per year for a Remote Areas Fund that targets service to the less than one percent of Americans living in the areas of the Nation which are the most difficult to serve. TCC is aware of current and future plans to build out significant terrestrial middle-mile infrastructure in other regions of rural Alaska. In contrast, TCC is not aware of any substantial plans to build terrestrial middle-mile infrastructure in the TCC region in the foreseeable future. TCC understands the significant challenges of building terrestrial microwave systems in Interior Alaska: terrain, weather, distance, availability of power resources and customers served per mile statistics are all significant barriers to rationally capitalizing and maintaining projects. Because of these situations, TCC suggests that Remote Area Funds be targeted generally toward middle-mile infrastructure deployments, as middle-mile back haul will most likely be the biggest barrier to meeting the Commission's objectives in extremely remote areas. TCC respectfully requests the Commission identify as early as possible and declare census blocks as Remote Areas in areas that are extremely high cost. We also request the development of a mechanism to score or prioritize extremely remote census blocks. Initially, the mechanism should be adopted to quickly identify areas that will likely be eligible for Remote Areas funding. The FNPRM suggest targeting census block areas in price cap territories identified by National Broadband Map data that have no wireline or terrestrial wireless broadband service available. TCC respectfully requests the Commission not limit this support model definition to only price-cap carriers and to take into consideration existing or planned terrestrial middle-mile networks in order to reduce the possibility of duplicate and wasteful support at the expense of areas that are in desperate

need of support. Many of the rural Alaska carriers are rate-of-return carriers or CETCs and TCC is concerned that many of our Tribal communities would not be eligible for this support considering the unfortunate possibility that other CAF and Mobility Fund mechanisms may not achieve intended results in many Alaska Tribal areas due to proposed competitive bidding processes or caps in legacy funding.

Another mechanism to possibly help identify Remote Areas would be to examine expenditures in other USF programs such as Rural Health Care and E-Rate mechanisms. The cost and distance data from these programs may be able to help identify or validate Remote Area designations.

The NPRM also seeks comment on the establishment of a Remote Areas fund term of support. TCC recognizes that middle-mile costs will most likely be largest ongoing cost components for census blocks designated eligible for Remote Areas funding. The Commission should carefully consider the impact of setting support term limits in Remote Areas. An initial support period of five years seems rational; however the Commission should be ready to deploy a mechanism to consider grandfathering initial recipients into indefinite periods of support in the event that market forces and USF support mechanisms in the end do not motivate adequate private or public investment in advanced telecommunications infrastructure.

Respectfully,

A handwritten signature in black ink that reads "Jerry Isaac". The signature is written in a cursive, flowing style.

Jerry Isaac, President and Chairman