

March 12, 2012

VIA ECFS

Ms. Marlene H. Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Permitted Ex Parte Presentation, WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WT Docket 10-208

Dear Ms. Dortch:

On March 8, 2012, representatives of Gila River Telecommunications, Inc. (“GRTI”), a telecommunications carrier wholly-owned and operated by the Gila River Indian Community (“GRIC”), and GRIC met with the following Federal Communications Commission (“FCC” or the “Commission”) staff to discuss certain implications for tribal lands of the recent order¹ adopted in the above-referenced docket regarding the transformation of the Universal Service Fund (“USF”) and intercarrier compensation (“ICC”) mechanism:

Irene Flannery – Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
Geoffrey Blackwell – Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
Patrick Halley – Wireline Competition Bureau
Alex Minard – Wireline Competition Bureau
Marcus Maher – Office of General Counsel
James Carr – Office of General Counsel

Representing GRTI and GRIC were Rebecca Kisto, GRTI Board Member; Darrell L. Gerlaugh, GRTI Board Member; Anika Evans, GRTI Board Member; Barney Enos, Jr., GRIC council member; Dale Enos, GRIC council member; Rod Lewis, an attorney at Akin Gump Strauss

¹ *Connect America Fund, et al.*, WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“*USF/ICC Transformation Order*”).

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Hauer & Feld LLP and a member of the GRIC; Sean Conway, an attorney at Akin Gump Strauss Hauer and Feld; and the undersigned FCC counsel.

GRTI/GRIC reiterated its position that network operation and investment by tribally-owned and operated carriers is significantly different than on non-tribal lands. Given this difference, GRTI/GRIC urged the FCC staff to provide special treatment in establishing benchmarks for permissible capital and operating costs for tribally-owned carriers. GRTI/GRIC stated that one contributing factor to the increased cost of network operations and investment by tribally-owned carriers is the historical lack of critical infrastructure (i.e., roads, highways, modernized housing, urbanized conveniences, etc.) on tribal lands. A second factor is the costs and delays associated with obtaining licenses and permits (i.e., tribal business permits, rights-of-way, cultural clearances, etc.). A third factor contributing to increased network operation and investment cost is the heightened public interest requirements imposed by tribal councils. For example, the GRIC council requires GRTI to provide service to all requesting residences at one low installation price, regardless of the cost to install such service. In addition, the GRIC council requires GRTI to make expedient repairs to damaged and ineffective plant. These heightened public interests requirements, although costly, are one reason why the telephone penetration rate on tribal lands served by a tribally-owned carrier are much higher than on tribal lands served by non-tribally-owned carriers. A fourth contributing factor to the increased costs of network operation and investment are the increased costs of labor and supplies for tribally-owned carriers. For example, GRTI incurs extensive training costs due to the lack of technically-trained members of the GRIC. In addition, the remoteness of GRTI's service area increases equipment costs.

GRTI/GRIC urged the FCC staff to afford special treatment in establishing benchmarks for permissible capital and operating costs for tribally-owned carriers given the Commission's trust relationship with tribes. The federal government has historically provided a variety of programs, services and monies for the protection of tribal lands and for individual Indians, including health care, education, housing, cultural protection, Native language protection and revitalization, roads and infrastructure. These programs, services and monies help promote tribal self-sufficiency, self-determination and self-governance.

Finally, GRTI/GRIC discussed its concern with the complexity of the waiver process.

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GRTI/GRIC provided the enclosed agenda to the meeting participants. Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. Please direct any questions regarding this submission to the undersigned counsel.

Sincerely,

_____/s/_____

Tom W. Davidson

Enclosure

cc: Geoffrey Blackwell
Irene Flannery
Patrick Halley
Alex Minard
Marcus Maher
James Carr

GRTI Meeting Agenda w/ FCC

Thursday, March 8, 2012, 1:30 p.m.

- GRTI/GRIC is unhappy with the FCC's failure to take into account the unique needs of Native Americans on tribal lands in adopting across the board rules on USF/ICC Reform.
- GRTI estimates that implementation of the new rules will reduce USF support for GRTI by \$1.6 million over the first full year that the rules are effective.
- To preserve its legal position, GRTI filed a Petition for Review at the 10th Circuit and an Opposition and Comments at the FCC in response to petitions for Reconsideration of the *USF/ICC Transformation Order*.
- Nevertheless, GRTI/GRIC is committed to work with ONAP and the FCC within the framework of the ongoing FCC proceedings to promptly find ways to offset the \$1.6 million loss of USF support.
- Specifically, GRTI/GRIC has filed comments and reply comments in response to the proposals contained in the further notice of proposed rulemaking in the USF/ICC proceeding to support adoption of specific rules that would be applicable to tribally-owned carriers. We want to discuss our positions with ONAP and the Wireline Competition Bureau.
- Along those lines, GRTI will identify those rules that cause it the greatest financial hardships, and discuss options for providing relief to this hardship.
- GRTI/GRIC filed its financial projections with the Wireline Competition Bureau and ONAP on the amount of USF support it will lose in 2012 and wants to discuss any possible approaches that the FCC has to address this shortfall.
- Finally, GRTI/GRIC questions whether the waiver process is a realistic option for GRTI/GRIC and wants to discuss questions pertaining to the waiver process and GRTI/GRIC's ability to meet the waiver requirements.