



March 5<sup>th</sup>, 2013

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**Re: WC Docket No. 10-90, Connect America Fund; GN Docket No. 09-51, A National Broadband Plan for the Future; WC Docket No. 07-135, Establishing Just and Reasonable Rates for Local Exchange Service; WC Docket No. 05-337, High-Cost Universal Service Support; CC Docket No. 01-92, Developing a Unified Intercarrier Compensation Regime; CC Docket No. 96-45. Federal-State Joint Board on Universal Service; WC Docket No. 03-109, Lifeline and Link-up; WT Docket No. 10-208, Universal Service Reform – Mobility Fund**

***Ex Parte Filing***

Dear Ms. Dortch:

On March 5<sup>th</sup>, 2013 the following parties met to discuss Mescalero Apache Telecom, Inc.'s (MATI) concerns over the enforcement of Universal Service Fund (USF) reforms and Intercarrier Compensation (ICC) reforms on its operations: Geoffrey Blackwell and Irene Flannery with the Office of Native Affairs & Policy (ONAP); Joe Cavender with the Wireline Competition Bureau (WCB); the Honorable Frederick Chino Sr., President – Mescalero Apache Tribe; the Honorable Alfred LaPaz – Secretary, Mescalero Apache Tribe; Godfrey Enjady, General Manager with MATI; Jerome Block with MATI; Alan Morel, General Counsel for MATI; Jesse Renteria with Mapetsi Policy Group; Gordon Kenny with Mapetsi Policy Group; Al Pederson with the Tribal Broadband Coalition; Randy Tyree representing MATI; and Doug Kitch with Alexicon Telecommunications Consulting. We are submitting this *ex parte* filing pursuant to Section 1.1206(b) of the Commission's rules.

It was explained that MATI continues to be financially harmed from the enforcement of the Commission's reformed USF and ICC rules. President Chino stated that the Mescalero Apache Tribe has approximately 4,800 members, the majority of which represent a younger generation of Tribal members, and further stated it is the Tribe's hope that this generation of its people not be left behind in having access to state of the art broadband technology. President Chino and Secretary LaPaz spoke of the unique circumstances facing their Community members, the high cost of deploying broadband telecommunications on their sparsely-populated Reservation, and are concerned the recent reforms will create a setback for MATI in complying with the Commission's mandates outlined in the *USF/ICC Transformation Order*. Furthermore, President Chino explained the history of its Treaty with the United States government, the Trust responsibility contained therein, and reminded the Commission that the federal government should consult with Tribal Council on a government-to-government basis instead of consulting with advisory groups within Tribes in carrying out the U.S. government's trust responsibility to Tribal Nations. MATI explained the negative impact that these reforms are having on its ability to meet the loan terms and conditions with RUS, specifically its minimum TIER ratio requirements.

Furthermore, the group discussed that while MATI is currently under the Quantile Regression caps used to determine and disburse USF funding, it was also made clear that MATI would likely be over the imposed caps if it was adequately staffed, which it is not, resulting from MATI cutting about 40% of workforce from 46 employees down to 27 employees. This necessary action will ultimately not only threaten public safety for the Mescalero Apache Community but also contradicts Chairman Genachowski's statement, "It will create jobs in the near term." (Chairman's statement speaking to a benefit of the *USF/ICC Transformation Order*)

Lastly, in the *ICC/USF Transformation Order*, the Commission proposed to largely utilize the same rules for Mobility Fund Phase II participation, and most importantly to MATI, the post-auction process, as were used for Mobility Fund Phase I. Among those rules is the requirement that all winning bidders obtain an irrevocable, stand-by, Letter of Credit (LOC) from a bank deemed acceptable to the Commission. While MATI is able to work within the confines contained in the Mobility Fund Phase II criterion, the LOC requirement has proved to be an insurmountable barrier to participation in the Mobility Fund Phase II process. This limitation prevents MATI from currently participating in the process.

ONAP and MATI agreed to continue open dialogue in expanding the record as it relates to circumstances that warrant special considerations in Indian Country. ONAP was also outspoken of its commitment to see that all of Indian Country is not left behind, a gesture that was well-received and appreciated by all members of the Mescalero Apache Tribe.

Sincerely,



Douglas K. Kitch, CPA  
President, Alexicon Telecommunications Consulting