

Testimony of
Belinda Nelson
Chairperson, Gila River Telecommunications, Inc.

Before the
Senate Indian Affairs Committee

“GAO Report on Tribal Access to Spectrum: Promoting Communications Services in Indian Country.”

Chairman Hoeven, Vice Chairman Udall and members of the Committee thank you for the opportunity to testify on behalf of the Gila River Telecommunications on the important topic of promoting better access to spectrum on Tribal lands by the FCC. Before I start, I also want to thank Vice Chairman Udall for his work over the last 11 years to promote broadband access on Tribal lands through his work on this Committee and the Commerce Committee. You have been a great advocate for addressing the needs of Indian Country and we very much appreciate all you have done and continue to do. Chairman Hoeven and Vice Chairman Udall and all members of the Committee, I also want to thank you for requesting that the Government Accountability Office provide the spectrum report that is the subject of this hearing.

In my testimony today, I want to focus on a few areas that GRTI believes could help Tribal residents gain greater access to wireless broadband. These include:

1. Greater access to licensed spectrum;
2. Auctioning spectrum with smaller geographic license areas;

3. Secondary market licensing;
4. Reforms to the Tribal Bidding Credit; and
5. “Build or divest” mechanisms.

There are other reforms that the FCC, the National Broadband Plan, the GAO and others have acknowledged over the years that could be helpful in closing the broadband canyon that exists on Tribal lands. Underlying all of these proposals is a need for policymakers to re-double their efforts, perform meaningful Tribal consultation, and adopt changes.

GRTI

I want to briefly provide an overview of Gila River Telecommunications, which we refer to as GRTI. I have the honor of serving as the Chairperson for GRTI, which was founded in 1988 and is wholly owned by the Gila River Indian Community. Our reservation is approximately 372,000 acres. We have more than 20,000 members, and almost 12,000 people living on our reservation. When we first purchased the exchange from Mountain Bell in 1988, only 10% of our residents had access to basic phone service and those looking to get “connected” had to pay tens of thousands of dollars before Mountain Bell would install a party line connection.

Today, GRTI offers phone service to 100% of our residents and 84% of the residents subscribe. We also offer high quality broadband service and are continuing to deploy our fixed network. That fixed network also offers

backhaul connectivity for wireless services that are available in the Community. We are very proud of GRTI's success and work everyday to ensure it continues.

Challenges to Broadband Deployment on Tribal Lands

As this Committee is well aware, Tribal lands are the least served areas in the country. How severe is the gap? That is currently unclear as the Commission is in the process of updating that data collection used to understand where broadband is not available. With that caveat, what the FCC data shows is that approximately 54 percent of Tribal lands lack access to broadband at speeds of 25/3, whereas only 27 percent of non-Tribal lands lack such access to broadband at those speeds. That is a significant difference and more accurate numbers would likely reveal an even greater gap.

The problems that make tribal lands generally "uneconomic to serve" are well-known by this Committee: low population density, low median income, high rates of poverty, rugged and difficult terrains, and regulatory obstacles such as multi agency approval for constructing communications facilities. These issues present challenges regardless of the technology used, which is why it is important for policymakers to consider the unique challenges on tribal lands when they are crafting policies. And that is what I will now turn to.

Licensed Spectrum Opportunities

As the GAO rightly identifies, there is a difference between licensed and unlicensed spectrum. Unlicensed spectrum is an essential part of the mix of

spectrum options, but given some of its limitations, such as interference requirements, licensed spectrum must be made more readily available to tribal entities. The GAO reports demonstrates there are very few tribal entities that currently hold such licensed spectrum. Based on their search of the FCC's licensing database, only 18 tribal entities hold such licenses, of which the Gila River Indian Community is one. The data is shocking as there are 573 federally-recognized tribes in the U.S. Even more staggering is the fact that there are 4,400 licensees, meaning tribal entities represent 0.4 percent of all licensees. These data point to a clear problem and evidence that more must be done.

GRTI commends the FCC's decision this past summer to open a "Tribal Priority" window in the 2.5 GHz spectrum band. That decision should provide a broad array of tribal entities an opportunity to acquire licensed spectrum that can be used to provide their communities 5G broadband services. We look forward to the Commission providing additional details on this opportunity in the coming months and we hope that the FCC considers this a "pilot program" and gives consideration to opening Tribal Priority windows in future auctions as well. But more remains to be done.

Geographic License. Specifically, GRTI supports auctioning spectrum with more discrete geographic areas so more tribal entities can participate. As it did in the 2.5 GHz proceeding, the Commission should identify service areas, like reservations, as the licensed area. This will encourage greater

participation as it will allow Tribes and other tribal entities a more-tailored license area focused on meeting the needs of their tribal community.

Secondary Markets. Additionally, GAO noted in its report that respondents stated secondary market opportunities could greatly enhance access to licensed spectrum. Allowing for a more structured process by which tribal areas are partitioned from the licensee's service area would allow unserved and underserved Tribes an opportunity to meet their broadband needs. This is currently allowed under the FCC's rules, but as the GAO Report demonstrates, the rules are not sufficient. GAO reports that only four (4) tribal entities have entered into secondary market agreements. This market-based solution needs rigorous backing by the FCC to move forward and we would urge this Committee to encourage the FCC to take steps to promote and encourage negotiations between licensees and tribal entities in unserved/underserved to advance these agreements.

Tribal Lands Bidding Credit. Another step the FCC could take would be reforming its Tribal Lands Bidding Credit policy. That policy provides a credit to the amount bid if the winning bidder commits to building out on tribal lands. The amount of the credits is tied to the amount of the winning bid and the winning bidder must buildout to 75% of the tribal population within three years. Better coordination upfront between the entity bidding and the tribal government could help make this a more utilized credit.

Build or Divest. Another proposal that may at first seem radical but is consistent with longstanding FCC practice is a “build or divest” proposal. This proposal would require licensees to either build out their network to serve the tribal communities within their licensed area or divest that portion of their license. At the root of this problem is the fact that licensees can often meet their buildout obligations without serving the tribal lands within their licensed area. Instead of leaving these tribal lands stranded without service because the licensee has no need, no economic incentive, and no interest in building out to the tribal area, the FCC should, as it would with a failure to build out under any license, require the licensee to either buildout or begin a divestment proceeding. The FCC could establish safeguards to ensure the intent of the licensee is fully understood, but those safeguards should also ensure that the needs of the tribal community are met.

All of these proposals are ones that the FCC has the authority to pursue right now. What seems lacking is a will to pursue them. In fact, most of the above proposals are the subject of an open proceeding initiated by the FCC in 2011. As GAO notes in its report on page 21 “FCC officials told us they have reviewed public comments to the proposed rulemaking, but have no current plans to take further action.” This is a very disappointing dose of reality for our communities and one this committee should take notice of, as it will lead to tribal communities across the nation falling further behind in achieving broadband, which only further exacerbates the economic and cultural hardships we face.

Tribal Consultation. One final note on an always important component of addressing tribal needs – consultation. Over the years GRTI has worked with the FCC at all levels of the agency, including meeting with the Chairman, the commissioners, the bureaus and with ONAP to address many concerns it has had with Commission policies. At times the dialogue with the agency has been meaningful and engaging. At other times, it has been after-the-fact and harmful to our efforts to bring communications services to our tribal community. I would say that Chairman Pai and many of his fellow commissioners have heard our concerns and have taken concrete steps to address them. We very much appreciate their willingness to hear us, but consultation with tribes, which the FCC committed to in 2001, remains vital to getting the policies for tribal areas right. We trust the FCC will continue to engage with all tribal communities to fix the broadband access canyons that exist on tribal lands. Congress charged the agency with ensuring access to communications services for all people. Robust consultation can help us all work together to achieve that Congressional directive.

Conclusion

I appreciate the opportunity to speak with you today, and hope to be an ongoing resource for the Committee. Thank you.