

**Written Statement of
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**Oversight Hearing on the GAO Report on
“Telecommunications: Additional Coordination and
Performance Measurement Needed for
High-Speed Internet Access Programs on Tribal Lands”**

**Committee on Indian Affairs
United States Senate
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Chairman Barrasso, Vice Chairman Tester, and Members of the Committee, thank you for the opportunity to testify today about the recently released GAO report on the status of broadband on Tribal lands.

The Status of Broadband on Tribal Lands

While there has been incremental improvement in recent years, residents of Tribal lands continue to disproportionately lack access to broadband. Beginning in 2015, the Commission defined a benchmark speed of 25 Mbps downstream/3 Mbps upstream as necessary to support the “advanced telecommunications capability” that Congress identified in Section 706 of the Telecommunications Act of 1996. Yet, according to the Commission’s *2016 Broadband Progress Report*, Tribal lands continue to be left behind from receiving these advanced services envisioned by Congress. For example, 41 percent of residents on Tribal lands lack access to fixed broadband service at the benchmark speed, as compared to 10 percent nationwide. While this figure represents a 22 percent increase in services available on Tribal lands since the *2015 Broadband Progress Report*, the fact remains that broadband access on Tribal lands remains far below the national average. This digital divide in Indian Country remains unacceptable.

An example of the challenges associated with bringing broadband to Tribal lands is the experience of the Standing Rock Sioux Tribe. The Tribe's present day homeland is the Standing Rock Reservation, which encompasses approximately 2.3 million acres on the borders of North Dakota and South Dakota. In an effort to address the state of communications services on the Reservation, the Standing Rock Sioux Tribe created Standing Rock Telecommunications, Inc. (Standing Rock Telecom) to provide mobile voice and data services within the entire Reservation. As a successful bidder in the FCC's Mobility Fund Phase I auction – resulting in \$3.3 million in total assigned support and coverage for up to 1,290 road miles on the Standing Rock Reservation – Standing Rock Telecom has the opportunity to use universal service Mobility Fund support to expand the critical services it is providing on the Reservation.

Recognizing the persistent disparity in access to communications services on Tribal lands, the Commission's Office of Native Affairs and Policy (ONAP) was created in 2010. Acting on a recommendation in the National Broadband Plan, the Commission charged ONAP with facilitating delivery of the benefits of modern communications infrastructure to all Native communities by, among other things, ensuring robust government-to-government consultation with federally-recognized Tribal governments and other Native organizations; working with Commissioners, Bureaus, and Offices, as well as with other government agencies and private organizations, to develop and implement policies for assisting Native communities; and ensuring that Native concerns and voices are considered in all relevant Commission proceedings and initiatives. There is a new way of doing Tribal business at the Commission. Our work with Tribal Nations is a strategic partnership, one in which we effectuate and exercise the trust relationship that the Commission shares with Tribal Nations.

FCC Initiatives to Bridge the Digital Divide in Indian Country

In the last eighteen months, the Commission has modernized two universal service programs that hold the potential to help bridge the digital divide in Indian Country. The first of these programs is the E-rate program, which is the country's largest educational technology program. In June 2014, at the invitation of Senator Udall, Chairman Wheeler traveled to the Pueblo of Acoma in New Mexico, meeting with then-Governor Vallo and other senior Tribal officials to discuss the state of connectivity on the Pueblo. During this trip, Chairman Wheeler and Senator Udall visited the Acoma Learning Center, the Pueblo of Acoma's Tribal library, where they discussed the library's connectivity challenges and its experiences with the E-rate program. Later that year, the Commission adopted two Orders that comprehensively modernized the E-rate program by setting specific, ambitious goals for the broadband capacity delivered to schools and libraries, refocusing funding rules for Wi-Fi and fiber deployment, and increasing the E-rate cap to meet the program's connectivity goals. To ensure that Tribal schools and libraries such as the Acoma Learning Center are able to participate effectively in the program, the FCC directed the Universal Service Administrative Company to create an USAC Tribal liaison to assist with Tribal-specific outreach and training.

Last month, the Commission adopted an Order to modernize a second universal service program, the Lifeline program. For more than 30 years, the Lifeline program has helped tens of millions of low-income Americans afford basic phone service. Recognizing the unique and dire economic circumstances many Tribal Nations face, the Commission provides enhanced levels of Lifeline support of up to \$34.25 per month to low-income residents of Tribal lands. Not surprisingly, Lifeline is an extremely important program to low-income residents on Tribal lands. Yet, before last month's vote, Lifeline support was limited to basic telephone service. Under the

new modernized rules, low-income residents of Tribal lands will soon be able to apply up to \$34.25 per month toward the cost of broadband service. This change will significantly reduce the cost of broadband for low-income Tribal residents while also incentivizing businesses to deploy broadband infrastructure on Tribal lands.

Yet, we recognize that our work is far from finished. For example, the Commission recently adopted a Further Notice of Proposed Rulemaking seeking comment on measures to increase broadband deployment on Tribal lands served by rate-of-return carriers. Chairman Wheeler publicly committed to bringing forward a proposal addressing this challenge before the end of the year.

Broadband technology is critical for Tribal communities to participate in the 21st century economy and to advance community development, health delivery, and education. We can, and will, do better.

GAO Report and FCC Response

In its engagement letter, GAO outlined three primary issues or objectives: (1) what data exist related to access to telecommunications services on Tribal lands and how might that data be improved; (2) what public and private sector programs exist to promote access to telecommunications on Tribal lands, and what actions could be taken to reduce barriers to access; and (3) what challenges exist to increasing telecommunications services on Tribal lands, and what actions could be taken to reduce barriers to access.

The GAO report, entitled “Additional Coordination and Performance Measurement Needed for High-Speed Internet Programs on Tribal Lands,” was released on February 3, 2016. The report examines: (1) perspectives of selected Tribes and providers on the importance of

high-speed Internet access for Tribes and any barriers to increasing this access on Tribal lands; (2) the level of interrelation and coordination between federal programs at the Commission and the U.S. Department of Agriculture (USDA) that promote high-speed Internet access on Tribal lands; and (3) existing data and Commission performance goals and measures related to access to high-speed Internet service on Tribal lands and for Tribal institutions.

The report contains four recommendations for the Commission, and the agency was given an opportunity to review the draft report and respond in writing to the recommendations prior to its release. A letter from the Chiefs of the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, agreeing with each of the recommendations, is contained in the report as Appendix III. In addition, Chairman Wheeler reported in writing to Congress on further efforts by the Commission in response to GAO's recommendations within 60 days of release of the report (March 31, 2016).

As discussed below, the Commission has executed, or is prioritizing, a broad range of initiatives to help improve and measure the availability and adoption of high-speed Internet on Tribal lands. But we recognize at the same time that there is much more to be done. The Commission is committed to facilitating the expansion of 21st century communications to Tribal Nations across the United States.

Recommendation 1: GAO recommends that the Commission develop joint training and outreach with USDA whenever feasible to help improve Internet availability and adoption on Tribal lands.

The Commission agrees with GAO that coordination with USDA is important and desirable in these areas. In fact, the Commission has partnered with USDA on multiple

occasions since 2012 to cooperatively develop and implement consultation, training, and outreach for Tribal Nations. For example, from 2012 through 2015, staff from USDA headquarters in Washington, DC and USDA regional offices across the country have presented and participated at many of the Commission's fifteen (15) interactive 2 ½ day regional Tribal consultation and training workshops across Indian Country. USDA has provided information to workshop attendees on programs including Community Connect Grants, Distance Learning and Telemedicine Grants, and the Computers for Learning Program. Most recently, in September 2015, a representative from USDA presented on the Computers for Learning Program at the FCC Tribal Broadband, Telecom, and Broadcast Consultation and Training Workshop in Rapid City, South Dakota. All of this information and training provided by our colleagues at USDA has complemented information that the Commission has provided on, for example, the four universal service programs and the Tribal Priority in broadcast radio.

Moreover, the Commission has invited USDA to participate in each of the five regional Tribal consultation and training workshops being planned for 2016. The first of those workshops will be held in late May or early June in Montana. This workshop comes on the heels of a meeting last fall between Chairman Wheeler and the leaders of the Tribal Nations in Montana in which Chairman Wheeler committed to greater consultation and coordination. The remaining four consultation and training workshops are in the process of being scheduled and will take place in Oklahoma and in the Great Lakes, Southwest, and Pacific Northwest regions of Indian Country. The Commission is committed to working with our Tribal partners and with USDA to ensure that the 2016 Tribal consultation and training workshops, as well as those in future years, provide as comprehensive and coordinated an approach as possible.

While joint participation with USDA in consultations and training workshops is a good start, we recognize that our coordination with USDA must be more strategic and routine. For example, staff should meet on a regular basis to share data and funding plans. This will help ensure that RUS loans and Connect America Fund dollars are having the greatest impact on tribal lands. Commission staff has begun working collaboratively with USDA staff to this end.

Recommendation 2: GAO recommends that the Commission develop performance goals and measures using, for example, data supporting the National Broadband Map, to track progress on achieving its strategic objective of making broadband Internet available to households on Tribal lands.

The Commission agrees with GAO on the importance of such performance goals and measures. In fact, the Commission has performance goals and tools in place that can be used to track progress in meeting this strategic objective, and the available data shows that the Commission is already making progress.

With respect to performance goals, the Commission's strategic goal of maximizing broadband availability on Tribal lands is fulfilled in part through its universal service programs established pursuant to its obligations under Section 254 of the Communications Act and Section 706 of the Telecommunications Act of 1996. In its 2011 order initiating reform of the universal service high-cost program, for example, the Commission stated that its Section 254 obligations ensured *universal* availability of broadband networks to *all* Americans, including those living on Tribal lands. To that end, the Commission has established a performance goal for the high-cost subsidy program of bringing broadband at speeds of at least 10 Mbps downstream/1 Mbps upstream to high-cost areas, including Tribal lands. The Commission has also adopted an outcome measure for this goal: the number of homes, businesses, and community anchor

institutions that newly gain access to broadband service as a result of high-cost/Connect America Fund support.

With respect to performance measures, the Commission collects and publishes data regarding progress towards its strategic objective of maximizing broadband availability on Tribal lands and overall. Twice a year, through its Form 477, the Commission collects broadband availability data for each census block across the country, including those on Tribal lands. The Commission uses that data both to publish statistics on the availability of broadband service on Tribal lands in its annual broadband progress report, and to monitor progress towards its universal service goals of ensuring universal availability of broadband networks to all Americans and promoting broadband adoption. In fact, in its *2016 Broadband Progress Report*, the Commission quantified the increasing numbers of subscribers on Tribal lands that have access to broadband capable networks and that are adopting broadband, indicating progress towards its strategic objective. The *2016 Broadband Progress Report* was adopted and released just prior to release of GAO's report and, therefore, the most recent broadband data is not reflected in the GAO report.

Later this year, the Commission will begin collecting geocoded location information regarding new broadband deployment from the larger incumbent carriers that receive Connect America Fund Phase II support, and it recently adopted a similar reporting requirement for the smaller rate-of-return carriers, which will be implemented in 2017. This information will be updated annually, which will enable us to track progress in making broadband available to Tribal lands over time.

Recommendation 3: GAO recommends that the Commission improve the reliability of FCC data related to institutions that receive E-rate funding by defining “Tribal” on the program application.

The Commission agrees with GAO on the need for clarity and will work with the Universal Service Administrative Company to provide guidance to applicants about the term “Tribal” on E-rate applications. Today, applicants check a box and self-identify as Tribal without any guidance as to what that term encompasses. Commission rules do not define “Tribal” for purposes of the E-rate program, nor is there any additional discount under the rules for Tribal schools and libraries. The Commission does agree, however, on the importance of collecting data both on schools and libraries on Tribal lands and on schools and libraries serving Native students, whether on or off Tribal lands. Beginning in funding year 2017, therefore, the Commission intends to amend directions to the E-rate application to offer guidance in applicants’ self-reporting of Tribal affiliation.

Recommendation 4: GAO recommends that the Commission develop performance goals and measures to track progress on achieving its strategic objective of ensuring that all Tribal schools and libraries have affordable access to modern broadband technologies.

The Commission agrees with GAO on the importance of goals and measures to track progress on achieving strategic goals, which is why the agency adopted goals and measures in its 2014 *First E-rate Modernization Order*. In that Order, the Commission adopted three goals for the E-rate program: (1) ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries; (2) maximizing the cost-effectiveness of spending for E-rate supported purchases; and (3) making the E-rate application process and other processes fast, simple, and efficient. For each of these goals, the Commission

adopted associated performance measures and targets to determine whether we are successfully achieving these goals. These performance measures and targets encompass all schools and libraries, including Tribal schools and libraries.

Further, as part of the development of a robust performance management system, the Commission directed USAC to take a number of important steps: to create a comprehensive and efficient data reporting structure; to develop information technology tools that facilitate analysis of all program data; and to increase public availability of such data. The Commission intended these actions to increase transparency and enable beneficiaries and other stakeholders to assess progress by schools and libraries in obtaining access to high-speed broadband connectivity.

Conclusion

The lack of access to broadband services over Tribal lands continues to prevent residents of Tribal lands from accessing information and services critical to our 21st century economy. Community-oriented and truly effective deployment of communications technologies within Indian Country, therefore, are critical. New commercial, educational, and health care opportunities, as well as social stability and quality of life issues, can be significantly improved through broadband. When implemented in concert, the recommendations advanced by GAO will help to improve and measure the availability and adoption of high-speed Internet on Tribal lands, giving the Commission a deeper understanding of where and how to direct resources. Through increased coordination among our Tribal and federal partners, the Commission will continue to address the persistent lack of access to broadband services on Tribal lands. Together, we are committed to bringing advanced communications services to Tribal lands, and we look forward to working with this committee to make broadband a reality for all Native communities.

Thank you again for the opportunity to testify this afternoon. I look forward to answering your questions.