

Testimony of

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Before the

UNITED STATES SENATE

COMMITTEE ON INDIAN AFFAIRS

Oversight Hearing On

The Government Accountability Office Report on

**“Telecommunications: Additional Coordination and Performance
Measurement Needed for High-Speed Internet Access Programs on
Tribal Lands”**

April 27, 2016

Chairman Barrasso, Ranking Member Tester and members of the committee, thank you for this opportunity to testify as President of the National Tribal Telecommunications Association (NTTA). I am Godfrey Enjady, General Manager of Mescalero Apache Telecom, Inc. (MATI) located in Mescalero, New Mexico. I also serve as Chairman of NTCA's Tribal Affairs Committee and am on the Federal Communications Commission's (FCC) Native Nation's Broadband Task Force.

NTTA is comprised of the nine Tribally owned and operated telecommunications companies that provide voice, broadband and other communications services to their communities. Those companies are Cheyenne River Sioux Telephone Authority (SD), Fort Mojave Telecommunications, Inc. (AZ), Gila River Telecommunications, Inc. (AZ), Hopi Telecommunications, Inc. (AZ), Mescalero Apache Telecom, Inc. (NM), Saddleback Communications (AZ), San Carlos Apache Telecommunications Utility, Inc. (AZ), Tohono O'odham Utility Authority (AZ), and Warm Springs Telecom (OR).

Mescalero Apache Telecom serves the entirety of the Mescalero Apache Reservation located in the remote South Central Mountains of New Mexico. Prior to MATI purchasing its service area and building its network in 2001, 52% of the Mescalero Apache Tribe received no service, and 48% received only basic voice service. Nearly 100% of the Tribe now has access to some level of broadband service. MATI provides services in what is considered a rural, high-cost area and serves an average population density of two customers per square mile. This situation causes the average cost per line to substantially exceed the national average. In addition, 90% of the Tribe is eligible for Lifeline Support, compared to the national average of 21.8%.

First of all, I would like to thank the Members of Congress that requested this study and the Government Accountability Office for its examination of these issues. The report concludes that “access to Internet on tribal lands varies but challenges to access and adoption remain. The high costs of infrastructure buildout on tribal lands, which tend to be remote and rugged terrain, work in tandem with tribal member poverty to create a barrier to high-speed Internet expansion on tribal lands.” The GAO goes on to recommend some joint outreach and training efforts between the Federal Communications Commission (FCC) and United States Department of Agriculture (USDA), and that the FCC develop some performance goals and measures related to broadband availability and adoption. Even though the GAO’s purpose was not to provide recommendations as how to increase broadband availability and adoption in Tribal areas, it does highlight some of the challenges being faced today.

The GAO Report demonstrates that providers serving Tribal areas face many unique challenges in bringing broadband services to Native Americans. The GAO correctly notes that broadband is vital in Tribal areas for education, economic development, and health care, not unlike the rest of the country. Most Tribal areas consist of some of the highest cost to serve areas in the United States, which in turn increases the infrastructure costs. In addition, according to the GAO Report, “Native Americans are among the most economically distressed groups in the United States. According to the Census’ 2014 American Community Survey (ACS), about 28.3% of Native Americans live in households with incomes below the federal poverty level – compared to 15.5% for the U.S. population as a whole.” Therefore, in addition to *availability* challenges, broadband providers in Tribal areas also face significant *affordability* and *adoption* challenges.

That being said, the issues raised in the study come as no surprise to those of us that work in this arena. The problems in serving remote, dispersed communities situated in hard to serve, rough terrain has been thoroughly illuminated in Congressional testimony and on the record at the FCC, and with USDA's Rural Utilities Service (RUS). For example, the FCC's National Broadband Plan (NBP) states "Tribes need substantially greater financial support than is presently available to them, and accelerating Tribal broadband deployment will require increased funding." In addition, the FCC's Office of Native Affairs and Policy said in 2012 that "the lack of communications services in Indian country – be it high speed Internet or broadband, traditional wireline phone service, mobile service, radio broadcast, or TV broadcast service – is well known." Finally, the FCC itself, in the landmark USF Transformation Order, stated "Tribally-owned and operated carriers serve cyclically impoverished communities with a historical lack of critical infrastructure." The GAO's most recent report serves to reinforce these statements, as does the fact that NTTA members exist solely due to the lack of communications service historically available on their respective reservations.

Recent FCC Broadband Progress Reports demonstrate the substantial digital divide that exists between Tribal areas and the rest of the United States. For example, the latest (2016) report, while noting some progress in the availability of 25 mbps (down) / 3 mbps (up) fixed broadband services, makes the Tribal gap painfully clear:

	Population	Percentage of Population Without access to 25/3
United States	33.982	10%
Rural Areas	23.430	39%
Urban Areas	10.552	4%
Tribal Lands	1.574	41%
Rural Areas	1.291	68%
Urban Areas	0.283	14%
U.S. Territories	2.628	66%
Rural Areas	1.078	98%
Urban Areas	1.550	54%

Access to capital is also a major roadblock to network growth and viability. Because most Tribally owned carriers cannot collateralize their assets, RUS is our only lender and I appreciate the work that they do. Last year, my company received the first RUS loan under the 2008 Farm Bill’s Sustainably Underserved Trust Area (“SUTA”) provision. The GAO study points out that there needs to be better coordination and communication between the FCC and RUS. NTTA agrees. RUS loans and FCC Universal Service Fund (USF) support go hand-in-hand. Reliable and predictable cash flow is required to get any sort of loan, including RUS loans.

The study notes that the National Broadband Plan, in numerous instances, outlines the need for greater efforts to be made to make broadband available on Tribal lands. The study points to the lack of FCC development of broadband performance goals and measurements on Tribal lands. Once again, NTTA agrees.

The study details the short falls of the E-rate program in Tribal communities. Better coordination and performance goals are needed. However, in some instances, there are other complications. The Bureau of Indian Education (BIE) operates the schools on my reservation and they have a nation-wide contract with a large communications carrier

that prohibits me from serving area schools. This is inefficient and blocks MATI from E-rate funding. I understand that there are Senators examining ways for the E-rate program to better support not just schools and libraries, but also Boys and Girls Clubs, and other institutions serving youth. NTTA applauds these efforts.

While highlighting some challenges faced in bringing viable and affordable broadband services to Tribal communities, the GAO study also made some recommendations which include training, mapping, data collection, and performance goals and measurements. NTTA has no objections to these recommendations. However, they do not go far enough.

Middle mile costs for NTTA members is extremely high and this is very problematic in bringing affordable, robust broadband services to Indian country. This high cost to reach the outside Internet world inhibits the broadband take-rate, thus putting a real damper on consumer growth.

The arbitrary budget cap that has been established for the Universal Service Fund high-cost program does not allow for adequate funds to build and maintain the broadband networks that are demanded by regulators, policy makers and consumers. There continues to be a debate about broadband capacities and speeds, no matter what the platform of delivery. Fiber optic networks as the anchor, with the compliment of wireless and satellite technologies, delivers the most rewarding Internet experience to consumers. And that network requires a viable and predictable funding source, especially in areas that are remote, sparsely populated and hard to serve. An examination and reform of the USF contribution regime is long over-due, and may eliminate any need for the arbitrary budget cap.

On June 19 of last year, NTTA went on record at the FCC with a proposal to adopt a Tribal Broadband Factor (TBF) as part of the reform of the long

term USF for rate-of-return carriers currently being considered by the Commission. The TBF includes a multiplier for targeted support on Tribal lands, and has specific obligations for any carrier, tribally owned or not, that uses the program. The proposal is straightforward and easily understood, and is narrowly-tailored to address the specific need to promote broadband while causing very little impact on the overall USF mechanism. We call on the FCC to adopt the TBF in a timely manner. Further, NTTA requests that members of this committee weigh-in with the FCC to act on the TBF and work to bring stability and predictability to USF support for Tribal communities.

As noted in the GAO report, adoption of available broadband services by Native Americans is also challenging due, in large part, to the poverty rates in Tribal lands. The federal Lifeline program, which provides direct credits to low-income consumers, has helped in allowing many Native Americans to subscribe to voice services. The FCC recognized the importance of Lifeline services in Tribal areas when it adopted an “enhanced” Lifeline credit for low-income consumers that calls for as much as \$25 in monthly service credits. However, with the addition of broadband services to the federal Lifeline program, NTTA has advocated for an increase to the Tribal Lifeline credit in order to recognize the higher costs of retail broadband service. While the FCC has adopted an order addressing this and other Lifeline issues, the text of the order has yet to be released, and thus NTTA does not know whether the Commission accepted NTTA’s proposed increase to the Tribal Lifeline credit or not.

Other issues that the NTTA would like to examine in the future are the access and economic rights of spectrum over Tribal lands, and the establishment of a USF Tribal Broadband Fund.

NTTA also believes that the letter of credit required by lenders, including RUS, has become burdensome and has, in many instances, become a roadblock to getting needed financing. In addition, NTTA believes the irrevocable letter of credit required to participate in the FCC's reverse auctions prevents NTTA members from using that program. This issue must be addressed.

Finally, NTTA would like to acknowledge the efforts by the staff at the FCC's Office of Native Affairs and Policy to bring a voice to native peoples at the Commission. However, this effort may not be enough. Congress should examine the establishment of a Native American Bureau at the FCC that has specific authority to provide support for broadband networks in Tribal communities.

Mr. Chairman, I want to extend my appreciation to members of this committee and your staff. Much more work needs to be done on infrastructure growth in Tribal areas, most importantly in the area of broadband deployment.

Thank you.