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To: [BOCrfc2015](#)
Subject: Broadband Opportunity Council - NTTA Comments
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Attachments: [NTTA BBOC Comments final.pdf](#)

Attached please find the comments of the National Tribal Telecommunications Association in response to the Broadband Opportunity Council's request for comment.

Please contact the undersigned if you have any questions.



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Broadband Opportunity Council
Rural Utilities Service
National Telecommunications and Information Administration
Request for Comment

Comments of the National Tribal Telecommunications Association

The National Tribal Telecommunications Association (NTTA), an association representing nine Tribally-owned and operated telecommunications providers, hereby submits these comments in response to the request for comment issued by the Broadband Opportunity Council (BBOC). NTTA members provide their Native American customers with voice and broadband services, and do so in some of the most rural and high cost areas of the United States. These comments will provide the BBOC with the unique perspective of broadband providers whose sole purpose is to bring broadband and other services to historically underserved and neglected areas.

The BBOC seeks to “understand ways the government can better support the needs of communities seeking to expand broadband access and adoption” and wishes to “identify regulatory barriers unduly impeding broadband deployment, adoption, or competition.” NTTA represents carriers owned by Tribal entities, and thus are directly accountable to sovereign governments. The United States government is to have a peer-to-peer relationship with these individual Tribal governments, and therefore should request and receive input from Tribal representatives before adopting any rule, regulation, law, or program that will affect Tribal governments or their interests.

In the BBOC’s Notice and Request for Comment, a number of specific questions are asked in several general groupings: (1) Overarching questions, (2) Addressing regulatory barriers to broadband deployment, competition, and adoption, (3) Promoting public and private investment in broadband, (4) Promoting broadband adoption, (4) Issues related to state, local, and Tribal governments, (5) Issues related to vulnerable communities and communities with limited or no broadband, (6) Issues with specific to rural areas, and (7) Measuring broadband availability,

adoption, and speeds. NTTA will comment on issues important to Tribally-owned carriers and the areas they serve, which will encompass several of these general areas of inquiry.

As Tribally-owned carriers responsible for bringing quality voice and broadband services to some of the most rural and high cost areas of the country, NTTA members have limited options for accessing the capital necessary to build telecommunications networks. One main source of capital is the Rural Utilities Service (RUS). While the RUS has been and continues to be instrumental in assisting many NTTA members, there is one area where NTTA believes RUS can be of further assistance – the Substantially Underserved Tribal Areas (SUTA) program. According to a fact sheet, the SUTA program’s provisions are designed to make RUS infrastructure financing more accessible to, and affordable for, Native Americans in trust areas because those areas, historically, have had difficulty receiving Federal assistance. Even though the SUTA program has proved useful to Tribally-owned carriers in some respects, the program could prove even more useful if it was available for refinancing current RUS loans at the 2% rate offered via the SUTA program. Thus far, NTTA members have been unsuccessful in advocating for this very simple change in RUS’ administration of the SUTA program.

While the Notice notes that the Federal Communications Commission (FCC) is an independent regulatory agency and is not included in the executive branch of the United States government, NTTA believes the FCC should be aware of this comment cycle and, to the greatest extent possible, abide by any findings of the BBOC. To this end, many of NTTA members’ current difficulties in investing in and maintaining networks necessary for the provision of quality voice and broadband services can be directly attributed to the FCC’s 2011 Universal Service Fund/Intercarrier Compensation Transformation Order (FCC 11-161). In that Order, the FCC fundamentally changed two extremely important regulatory regimes for small carriers, such as those represented by NTTA – federal universal service and intercarrier compensation. In large part, the effect of the Transformation Order on NTTA members has been overwhelmingly negative – companies are receiving less support, have fewer options for cost recovery, and are

asked to do more. NTTA and its members have been very active in advocating for the continuation and advancement of broadband services in Tribal areas, but little progress has been made. In general, NTTA believes that the United States Government, overall, and the FCC in particular, can go a long way in removing unnecessary regulatory and policy barriers to broadband build-out and adoption in Tribal areas by first recognizing the unique circumstances in these areas, and then only take actions that serve to ameliorate, rather than exacerbate, already existing conditions.

The last points that NTTA will discuss are ones related to sufficiency. First, the FCC (and, by extension of the FCC being the regulatory authority in regards to broadband policy) has recently established the minimum broadband speed standard at 10 mbps (down) and 1 mbps (up), and determined that “advanced services” should consist of broadband services at minimum speeds of 25 mbps (down) and 3 mbps (up). Second, the FCC has settled on a \$2 billion cap on federal support available for small (rate-of-return regulated) carriers to bring broadband services at the minimum speeds, and maintain current voice and broadband networks. Considering the \$2b cap was established prior to any changes standard broadband speeds, the FCC continues to insist that total federal funding for these vital services not exceed \$2 billion.

Current broadband speeds available in rural and Tribal areas are widely seen to be inadequate. In many instances, the speeds available in rural and Tribal areas are orders of magnitude below what is available in urban areas. This difference, sometimes referred to as the digital divide, threatens to widen until it becomes an unmanageable chasm. To now declare that 10/1 or even 25/3 speeds are the target for Tribal areas is unacceptable to NTTA members, and will only serve to widen the chasm. NTTA firmly believes that (1) download speeds targets in Tribal areas should be comparable to those available to a majority of customers in urban areas and should reflect the reality of life in Tribal areas where a reliable and fast broadband connection may be the only way to reach the rest of the world economy, and (2) upload speeds, which have been almost completely ignored, should be synchronous with download speeds. Upload speeds may very well be even more important than download speeds in many areas of

the e-commerce economy. Thus, having a modern and realistic broadband speed goal in the United States would serve to remove barriers to broadband deployment and adoption.

The FCC, who is responsible for a large portion of the universal service support structure in the United States, is sticking to an overall budget for areas served by small, rate-of-return regulated carriers for deploying universal voice and broadband services. This budget, currently set at \$2 billion, is based on a legacy support structure that, for the most part, did not consider broadband speeds at 10/1 or 25/3. And if, as NTTA advocates, the standard speed should be much higher than even 25/3 (and synchronous), then the FCC's budget becomes clearly and dangerously insufficient. Obviously, having a federal universal service support budget constrained such that it cannot possibly cover what needs to be done presents a barrier to broadband deployment in Tribal areas. NTTA is currently working on a Tribal-specific broadband fund, but action is also needed beyond NTTA members to address the Tribal areas served by non-Tribally owned carriers. This will take considerable political will and regulatory flexibility to address, and the time to begin this is now.

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