

**Testimony of**  
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**Presented to the**  
**UNITED STATES SENATE**  
**Committee on Commerce, Science, and Transportation**  
**“Broadband: Opportunities and Challenges in Rural America”**  
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Chairman Thune, Ranking Member Nelson and members of the committee, thank you for this opportunity to submit testimony. I am Godfrey Enjady, General Manager of Mescalero Apache Telecom, Inc. (MATI) located in Mescalero, New Mexico. Today I testify as President of the National Tribal Telecommunications Association (NTTA) which 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, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc., Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Tohono O’odham Utility Authority, and Warm Springs Telecom. The

Nez Perce Tribe and Sacred Wind Communications are associate members.

While NTTA members share many of the same concerns that rural, independently-owned and cooperative communications providers experience, my testimony focuses on issues vital to Tribal communities.

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 loop to substantially exceed the national average. MATI, like all NTTA members, has a large percentage of consumers that qualify for the Lifeline program.

The recent 2018 Broadband Deployment Report acknowledges that only 31.6% of rural Tribal areas in the lower 48 states have access to 25/3 fixed broadband service. MATI attests that, in its specific case, extremely high costs are incurred to build out its Reservation and maintain network operations to provide modernized telecommunications and broadband services to its community and close the digital divide. The record is also clear that other NTTA members face similar high-cost circumstances and, like MATI, incur additional costs specific to serving Tribal lands.

The difficulties 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 Federal Communications Commission (FCC), and with USDA's Rural Utilities

Service (RUS). A September 2018 GAO study (GAO -18-630) magnifies the digital divide experienced in Indian Country and I encourage you to take a look at that document.

Access to capital is 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. In 2015, my company received the first RUS loan under the 2008 Farm Bill's Substantially Underserved Trust Area (SUTA) provision. 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.

NTTA supports language in the Senate version of the 2018 Farm Bill (Sec. 6209) that allows for the refinancing of RUS loans with the understanding that the SUTA provision would be used when appropriate. We greatly appreciate Senator Udall's leadership in championing this provision. We also appreciate Chairman Thune's support.

The National Broadband Plan, in numerous instances, outlined the need for greater efforts to make broadband available on Tribal lands. In referencing the GAO study outlined earlier in my testimony, there is a lack of FCC development of broadband performance goals and measurements on Tribal lands. We recommend the development of training, mapping, data collection, and performance goals and measurements for broadband development in Native communities.

The arbitrary budget cap that has been established for the FCC's USF 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 the appropriate levels broadband capacities and speeds, no matter

what the platform of delivery. Fiber optic networks, with the complement of wireless and satellite technologies, delivers the highest quality, most rewarding Internet experience, and long term benefit to consumers. And that network requires a viable and predictable funding source, especially in areas that are remote, sparsely populated and hard to serve.

To put it bluntly, the Universal Service Fund high-cost program is vastly underfunded. Capital and operational expense caps must be eliminated. FCC Chairman Pai has even questioned the wisdom of these caps. My company is experiencing major negative impact from the implementation of the operational expense cap and we are in the process of working with the Commission on a positive solution. An examination and reform of the USF contribution regime is long overdue, and may eliminate any need for the arbitrary budget cap.

A just released GAO study (GAO-18-682) states - "Specifically, from 2010 to 2017, we found that less than 1 percent of FCC funding and about 14 percent of RUS funding went directly to tribes and tribally owned providers. Combined, FCC and RUS funding totaled \$34.6 billion during that time period and tribes and tribally owned providers received \$235 million, or about 0.7 percent." This illustrates the need for dedicated funding for Tribal entities.

In June of 2015, 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. The TBF included a multiplier for targeted support on Tribal lands, and had specific obligations for any carrier, Tribally-owned or not, that uses the program. The proposal was straightforward and easily understood, and was narrowly-tailored to address the specific need to promote broadband while causing very

little impact on the overall USF mechanism. The FCC did not adopt this proposal.

NTTA continues to push for a Tribal area-specific high-cost mechanism (or revisions to the current mechanisms). We encourage Congress and the FCC to address this much needed reform to eliminate the digital divide experienced in Native communities.

We also believe that an increase in the enhanced lifeline credit for Tribal areas is vital to adoption and affordability of those who are eligible and qualify for this program. As I previously mentioned, our communities have very high rates of low income consumers.

NTTA recommends that a pilot program be established to locate existing infrastructure in Indian country. In many Tribal areas, current infrastructure facilities (water, sewer, gas, electricity) are not properly identified or mapped. The preference of burying new broadband infrastructure leads to unintended cuts and/or damage to existing utility facilities that can prove to be inconvenient and possibly dangerous to the local community as well as adding significant cost to a broadband build out. There are numerous instances of Tribally-owned and operated telecommunications companies using a major portion of their broadband project funding to repair damaged infrastructure. For example, MATI recently incurred over \$350,000 of additional construction costs resulting from hitting unmarked water and sewer lines during its current fiber-to-the-home build. In the case of Tribally-owned companies, this funding would be provided primarily through RUS loans or grants. With aging infrastructure on Native lands, the scope of this problem is significant and unknown. A pilot program, with adequate funding, would allow all parties involved to develop best practices and methods to identify unmarked infrastructure to avoid damage and unneeded additional cost.

We also recommend additional funding for the development of more robust middle mile infrastructure and capacity. Most Tribally-owned telecommunications companies serve rugged and remote areas. Issues related to distance and capacity make connecting to the “outside world” very costly. As Tribal companies build out broadband to their communities, they add more customers and therefore more traffic on their network. Customer usage and consumer demands have also driven the need for more capacity (distance learning, telemedicine, video streaming, etc.). An injection of funds to build more middle mile capacity for Tribal use would greatly benefit those communities.

Also, there needs to be a reallocation of spectrum for Tribal use. The current process of spectrum allocation makes it very difficult for smaller entities to access spectrum. This includes Tribal communities which need both wired and wireless services to prosper. One way to address the scale of size issue is to establish a Tribal Spectrum Network to increase the capacity “buying power” of Tribal entities.

The previously mentioned GAO study addressed the need for better mapping mechanisms to measure the levels of access to broadband service in Native communities. The use of census blocks as a measurement simply does not work in a majority of Indian Country.

There are many other issues that can be addressed to enhance broadband deployment in Tribal areas: expansion and increased funding for USDA’s Community Connect Grant program, the reduction of regulatory compliance reporting for small companies, and a better Tribal engagement and consultation processes. On this last point, the enforcement of engagement and consultation between Tribal entities, federal, state, and local governments, and private businesses must be improved. This includes a wide range of issues such as rights-of-way, easements, and pole and tower siting.

Mr. Chairman, much more work needs to be done on infrastructure growth in Tribal areas, most importantly in the area of broadband deployment. NTTA looks forward to working with this committee and other policy makers to provide Tribal communities with accessible, robust, and affordable broadband services.

Once again, thank you for the opportunity to testify today.