

May X, 2020

Via Email

Chairman Ajit V. Pai
Commissioner Michael O’Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Commissioner Geoffrey Starks
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Extending Broadband Access in Rural and Native Communities
During the COVID-19 Pandemic and Beyond**

Dear Chairman Pai and Commissioners:

The COVID-19 pandemic has required Americans to adjust their daily activities and stay home in order to protect themselves and the health of our communities. These necessary changes require access to a necessary service – broadband. Yet, the Federal Communications Commission estimates that about 30 million people still do not have broadband access, with 35% of residents in rural areas and 40% of residents in tribal lands lacking the service.¹

The undersigned organizations represent rural and Native communities. We write to share stories about the experience of lacking a broadband connection when the service is necessary to work, study, and obtain healthcare, safely. These brief anecdotes illustrate the negative impact that substandard service or lack of service has on the safety and wellbeing of rural and Native communities in general, and particularly during the COVID-19 pandemic.

We also write to share policy recommendations that will increase broadband access in Native and rural communities in the short- and long-term. We respectfully encourage the Commission to adopt these recommendations so that our communities are not left disconnected at anytime, and are not left vulnerable during times of national emergency.

Stories of Substandard or No-Internet Service

Mark Estrada is the Superintendent of the Lockhart Independent School District (Lockhart ISD) in Lockhart, Texas. Lockhart is in Caldwell County, a rural county in central Texas about 25 miles outside of Austin. Lockhart ISD is over 300 square miles, and primarily serves

¹ *Bridging the Digital Divide for All Americans*, FED. COMMUNICATIONS COMM’N, <https://www.fcc.gov/about-fcc/fcc-initiatives/bridging-digital-divide-all-americans> (last visited May 11, 2020).

underserved populations. About 60 % of Lockhart ISD students live in rural areas outside of the city proper, which means most students are bused to school. 75 % of students qualify for free and reduced lunch, and 30 % of students are English Language Learners. Historically underserved students continue to be underserved as technology becomes a bigger part of education. About 40% of the county surrounding Lockhart is a dead zone, and there are currently no service providers. Broadband access simply does not exist for some people, including many in the Lockhart ISD staff.

Districts in urban areas can give a hotspot to families that do not have broadband access, but a hotspot does not work when there is nothing to connect it to. For over two years, Lockhart ISD had been looking into building its own network to connect students and staff who live in the rural areas of Caldwell County, and the COVID-19 pandemic pushed the district to act urgently. In early April, Lockhart ISD purchased seven booster towers that will be placed outside school buildings and provide connectivity to the entire County. Internet service will be free to families, and the district will pay only \$30 a year per household. Finding the right vendor for this project was challenging because, unfortunately, many providers are not interested in serving a rural community.

Dr. Libby Cope is the Health Director of the Sophie Trettevick Indian Health Center (STIHC) of the Makah Nation. The STIHC is in Neah Bay in the Makah Tribe's reservation, located at the most northwest tip of Washington about four and a half hours from Seattle. The nearest community regional hospital is about 70 minutes away, and the closest hospitals able to provide trauma care are an hour and a half away in Port Angeles or over four hours away in Seattle. STIHC is the main provider of primary care, behavioral, dental, emergency, and urgent care to the area. STIHC serves about 2,300 patients, including Makahs living on and off the reservation and the larger non-Native community in the area.

The connectivity challenges the Makah Nation is experiencing predate COVID-19. For example, a previous effort in partnership with the University of Washington to provide telepsychiatry failed because patients did not have adequate Internet connectivity. Right now, a patient has to travel to Seattle or Tacoma to see a psychiatrist. In 2014, the Nation built a wellness center to house community health, physical health, and recovery services, and planned to eventually move all other healthcare services there. However, lack of fiber broadband access or even adequate internet service at the center has stunted that plan. Some days, it takes an hour for computers to reach the server in the morning, and other days the internet simply does not work. In addition, unreliable cell phone coverage at existing healthcare facilities render hotspots useless. The area experiences cell phone power outages at least once a month. Finally, efforts to relocate medical facilities outside of the region's tsunami hazard zone are not possible because broadband infrastructure does not exist outside of that zone.

Tim Lampkin is the CEO of Higher Purpose Co. in Clarksdale, Mississippi. Higher Purpose is an economic justice nonprofit that supports Black entrepreneurs such as farmers, artists, and traditional brick and mortar businesses across Mississippi. The economy in Clarksdale depends on tourists visiting casinos and attending the dozens of blues festivals in the region. During the pandemic, the nonprofit has been working to figure out how to assist entrepreneurs face underlying challenges exacerbated by limited connectivity: access to hardware, training to operate a business online, and online banking in one of the states with the highest populations of unbanked people.

Prior to the pandemic, entrepreneurs frequented the Higher Purpose office to use computers, print, fax, sign contracts, and complete general tasks for their business. As business activity goes online, limited access to technology and connectivity stalls rural entrepreneurs. Higher Purpose works with many family farmers that do not have the capital to invest in new technologies, and the organization is currently working on solutions to provide computers and laptops to entrepreneurs that do not have such equipment. Even for entrepreneurs that have the equipment necessary, connectivity is a problem. Those with no internet access at home use cellphones as hotspots, including Higher Purpose staff, but spotty cell service makes hotspots an unreliable option. While existing broadband infrastructure in the Jackson, Mississippi metro area helps entrepreneurs keep their businesses afloat, entrepreneurs in the rural Mississippi Delta are stuck on the wrong side of the digital divide.

Kim Phinney works with programs serving Opportunity Youth in rural and Native communities in Appalachia, Pennsylvania, Oregon, California, and Vermont. Opportunity Youth are low-income young people between the ages of 16-24 that are not enrolled in school or participating in the labor market. About 20% of Opportunity Youth live in rural and Native communities and face difficult challenges such as unstable housing, food insecurity, and lack of transportation. While Opportunity Youth are labeled as “disconnected,” they want opportunities for leadership, service, education, and reliable employment. Programs like YouthBuild, ConservationCorps, and AmeriCorps provide education and training services to this population, and are a vital point of internet connectivity.

Opportunity Youth visit program offices to use computers and get online. During the pandemic, distance learning and training has not been an option for these programs as Opportunity Youth simply do not have access to the internet outside of their office. Even cellphone service is unreliable. A program in Oregon reported that only one of the staff members actually has cellphone reception at their home. Although coverage is a major issue for Opportunity Youth, the ability to pay for telecommunications services and devices is the bigger problem. Of the programs that Kim works with, only one young person has a computer, and many do not have a cellphone. The reality is that Opportunity Youth and their families are simply not in a position to afford internet service or purchase the devices necessary to get online.

These anecdotes of substandard access or no access to broadband service are not isolated. A history of underinvestment in broadband infrastructure in rural areas and tribal lands has left millions of Americans disconnected. Rural and Native communities struggled to access telecommunications services before COVID-19, and the pandemic has crystalized the burdens of the digital divide. However, this continued disparity is not inevitable. To ensure that rural and Native communities do not continue to bear the burden of disconnection, the undersigned organizations respectfully encourage the FCC to adopt the following short-term and long-term recommendations:

Short-Term Recommendations

- 1. Require Lifeline providers to offer unlimited voice, text, and data services to Lifeline subscribers** during the pandemic and for six months after to ensure subscribers can rely on these services during government and economy recovery efforts. Lifeline usage allowances were insufficient before the pandemic, and are particularly deficient now when individuals are relying more on communications services to remain connected. Lifting the

Lifeline voice, text, and data services caps will provide appropriately increased access to these critical services during the pandemic and during the recovery period.

2. **Extend the 2.5 GHz Tribal Priority Window for tribes to access unclaimed spectrum licenses over their lands.** Tribal governments and entities, the intended beneficiaries of this proceeding, are fully focused on protecting Native communities from COVID-19. An extension of the 2.5 GHz Tribal Priority Window will allow tribal governments to continue to devote their time, resources, and efforts on keeping their communities healthy and safe, and apply at a later date when they have time to recuperate.
3. **Encourage telecommunications companies to suspend all fixed and mobile broadband data caps and usage overage charges** during the pandemic and for six months after the pandemic ends to allow for connectivity during government and economy recovery efforts. Shelter in place orders have intensified the use of telecommunications services. At the same time, 30 million Americans have applied for unemployment benefits.² Americans experiencing a sudden loss of income should not be worried about paying data overage charges precisely during a time when broadband services allow them to safely access social services, resources, family and friends. Because the high use of telecommunications services will likely gradually decrease as states reopen social and economic activity, data caps and overage chargers should be suspended for six months after the pandemic ends to allow for recovery efforts.
4. **Encourage ISPs to offer subsidized or free broadband service to tribal governments,** radio and television stations, first responders, and hospitals on reservations, during the pandemic and for six months after the end of the pandemic during recovery efforts.
5. **Delay the RDOF Auction 904.** The Rural Digital Opportunity Fund (RDOF) promises to distribute \$20.4 billion, the largest amount for rural broadband investment. The RDOF Phase I Auction (Auction 904) is scheduled to take place in five months. However, small rural and Native-owned providers are currently focused on solving connectivity challenges during the pandemic and will be focused on helping communities stay afloat during recovery efforts. This means that providers with enough resources to both respond to connectivity challenges and participate in a complex auction will effectively be the only ones able to participate. Delaying the auction would allow small rural and Native-owned providers to recuperate and gather the necessary resources to participate; thus promoting participation and competition in the auction.
6. **Allow tribal lands that have received separate funding to be eligible for RDOF.** Building broadband networks is expensive, and providers that choose to build networks in tribal lands need all the help they can get. Thus, the Commission should not disqualify tribal lands that have already received separate funding from state or Department of Agriculture programs from being eligible for RDOF funding. Multiple sources of funding are necessary, particularly to build networks in tribal lands and remote areas historically neglected by large telecommunications carrier investment.

² Scott Horsley, *A Staggering Toll: 30 Million Have Filed For Unemployment*, NPR MORNING EDITION (Apr. 30, 2020), <https://www.npr.org/sections/coronavirus-live-updates/2020/04/30/848021681/a-staggering-toll-30-million-have-filed-for-unemployment>.

7. **Require Auction 904 winning bidders that receive funding to build in tribal lands to demonstrate an established collaboration with the tribal governments** of the lands where they received funding, within 180 days of being announced as winning bidders. Collaboration with tribal governments is critical for building broadband networks in tribal lands that actually extend connectivity to Native communities and protect sacred and historical sites. A winning bidder can demonstrate this collaboration with a letter of support from the tribal council of the tribal land they seek to serve.

Long-Term Recommendations

1. **The FCC should establish a Tribal Broadband Fund to provide targeted funding for broadband planning and deployment on tribal lands.** Proposed in the 2010 National Broadband Plan, the Tribal Broadband Fund was recommended to provide funding for technical assistance training to tribal governments and entities to plan, construct, and maintain broadband projects on tribal lands.³ These funds would be critical to enable tribal governments and entities to conduct feasibility and deployment studies to identify areas of broadband infrastructure needs on tribal lands. Such studies could also aid in improving data accuracy regarding the lack of infrastructure assets and capabilities on tribal lands and be used to challenge FCC Form 477 data inaccuracies. The Tribal Broadband Fund could also be leveraged to deploy broadband assets on tribal lands by providing targeted infrastructure funding and to also supplement resources with the other four Universal Service Fund Programs.
2. **Collect affordability and outage data, crosscheck data reported by providers, and survey consumers.** The Broadband DATA Act⁴ moved FCC data collection efforts in the right direction, but the Commission should do more to truly understand the status of telecommunications services in our nation. To understand the role of affordability in closing the digital divide, it is important that the Commission collect information about the price that customers pay. To understand the reliability of our broadband networks, it is important that the Commission collect data about network outages. To enhance information self-reported by providers and reporting errors in broadband access, these data collection efforts should be supplemented by FCC-crosschecking of data and independent FCC surveys with consumers.
3. **Establish interagency cooperation** with the United States Department of Agriculture (USDA), the Department of Interior, Indian Health Services, the Bureau of Indian Affairs (BIA), the Department of Health and Human Services (HHS), and the Department of Housing and Urban Development (HUD). These agencies play an important role in connecting rural areas and tribal lands. The combined knowledge, skills, and resources, of the FCC and these agencies can birth new solutions and initiatives to finally close the digital divide in the United States.

³ FEDERAL COMMUNICATIONS COMMISSION, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN 152 (2010).

⁴ Broadband Deployment Accuracy and Technological Availability Act, 47 U.S.C. §§ 641-646 (2020).

4. **Extend E-Rate networks.** It is within the FCC’s statutory authority and its E-rate rules to extend connectivity to students’ homes, at no cost to the Universal Service Fund. The Telecommunications Act of 1996 requires that broadband services funded by E-Rate be used for “educational purposes,” which has been broadly applied by the Commission.⁵ Moreover, the statute specifically states that “access to advanced telecommunications and information services” be enhanced to elementary and secondary school “classrooms.”⁶ The reality today, demonstrated by the COVID-19 pandemic, is that students’ homes are their “classrooms” – learning does not end when children leave the physical school building.
5. **Hold a Tribal Priority Filing Window for every spectrum auction.** Tribes, Alaska Native Villages, and Native people, need access to spectrum to close the digital divide that persists in tribal lands across the United States. In 2010 the Commission created a priority for tribes, tribal entities, and tribal members to obtain licenses to provide radio services over tribal lands.⁷ This year, the Commission opened a window that allows tribes and qualifying tribal entities, Alaska Native Villages, and Native Hawaiians to obtain a license in the 2.5 GHz band before the auction for that band.⁸ Tribal access to spectrum increases access to radio services and enables tribes the opportunity to provide internet service on tribal lands. These initiatives are commendable, and truly support closing the digital divide for indigenous peoples in the United States. The Commission should create a Tribal Priority Filing Window for licenses over tribal lands in advance of every spectrum auction.

While the Commission has taken important steps to address broadband access during the COVID19 pandemic such as creating and extending the Keep America Connected Pledge, reminded schools and libraries that they may permit community-access to their E-Rate Wi-Fi signal, and granted Special Temporary Authority to tribal colleges and governments, a lot remains to be done to truly ensure that rural and Native communities do not get locked in the wrong side of the digital divide.

In the spirit of offering solutions, we encourage the FCC to embrace the policy recommendations included in this letter.

Respectfully,

⁵ 47 U.S.C. § 254 (h)(1)(B).

⁶ 47 U.S.C. § 254 (h)(2)(A).

⁷ See *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, MB Docket No. 09-52, First Report and Order and Further Notice of Proposed Rulemaking, FCC 10-24 (2010); 47 U.S.C. § 307(b).

⁸ See *Transforming the 2.5 GHz Band*, Report and Order, 34 FCC Rcd 5446(7) (2019).