

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Schools and Libraries Universal Service) Docket No. 02-6
Support Mechanism)

**Comments of
NTCA–THE RURAL BROADBAND ASSOCIATION**

To the Commission:

I. INTRODUCTION

NTCA–The Rural Broadband Association (NTCA) hereby submits these comments in the above-captioned docket. In this proceeding, the Commission proposes to update the definition of “library” in the Commission’s rules to clarify that Tribal libraries are eligible to obtain Universal Service Fund (USF) E-Rate funding. NTCA represents approximately 850 locally operated rural broadband providers, including more than 100 providers serving Indian Country. NTCA governance includes a Tribal Affairs Committee, which provides guidance to the association to help shape and inform the discussion of Federal regulatory and legislative issues and the impacts for Tribally owned providers and other members who serve Tribal nations.¹ The Commission suggests, and NTCA agrees, that the proposed rule amendments will ease Tribal libraries’ access to important E-Rate resources. This, in turn, will enable these centers to better serve their constituencies with important services and resources.

¹ See, NTCA website at <https://www.ntca.org/member-services/governance/committees-councils> (visited Nov. 5, 2021).

II. DISCUSSION

In the instant proceeding, the Commission proposes amendments to its rules that will expand a pathway for Tribal libraries to obtain important E-Rate funding. Currently, the ability of Tribal libraries to leverage the promise of advanced broadband capabilities is subject to constrictions imposed by a decades-old definition of “library.” Specifically, Section 254(h)(4) of the Communications Act, as amended, limits E-Rate distributions to libraries (or library consortia) that are eligible for assistance from a State library administrative agency under the Library Services and Technology Act (LSTA).² In 1996, those entities were defined to include: (1) public libraries; (2) public elementary or secondary school libraries; (3) academic libraries; (4) research libraries; and (5) private libraries, provided the state in which the private library operated accepted the private library. Accordingly, when adopting E-Rate rules, the Commission made specific reference to the LSTA as then effective.³ These parameters, however, left Tribal libraries outside the categories of those entities eligible to obtain LSTA funding from State library funding agencies and, by extension, E-Rate funding, as well. More than two decades later, Congress amended the LSTA through the Museum and Library Services Act of 2018 to include specifically Tribal libraries among those that are eligible for LSTA funding.⁴ The Commission’s corresponding E-Rate rules, however, were not updated at that time, leaving Tribal libraries outside the E-Rate definition.

The Commission now proposes to revise 47 CFR 54.500 and 54.501(b)(1) to reflect the 2018 definition of “library” as provided in the amended LSTA. This measure will not only ease

² 47 U.S.C. § 254(h)(4).

³ Library Services and Technology Act, 110 Stat. 3009-1, Pub. L. 104-208, 104th Congress (1996) (the text of this Act can be accessed via <https://www.congress.gov/104/plaws/publ208/PLAW-104publ208.pdf>).

⁴ See, Museum and Library Services Act of 2018, 132 Stat. 5412, Pub. L. 115-410, 115th Cong. (2018), Section 213(1), *codified at* 20 U.S.C. § 9122(1).

the path to E-Rate funding for Tribal libraries but will also achieve consistency between E-Rate rules and Emergency Connectivity Fund (ECF) rules, the latter of which specifically contemplate the 2018 LSTA amendments and include Tribal libraries. To be sure, State library administrations have historically taken steps to include Tribal libraries. But, and as noted by the Commission, there remains a significant gap as just 15% of Tribal libraries are receiving E-Rate funding.⁵

NTCA supports the Commission’s proposal to amend the E-Rate rule. This step is imperative to ensuring that Tribal libraries have access to resources that will enable their fulfillment of critical services in their communities. As noted by a recent report from the American Library Association,

Tribal libraries are cultural stewards for the native communities preserving native languages, ways of life, and sacred materials. While some tribal libraries are stand-alone entities, others are within schools, colleges or universities or serve multiple functions as community centers, museums, or archives. As a result, they often serve geographically large areas and perform diverse functions.⁶

NTCA further submits that the role of libraries in Tribal areas is exceedingly important where home adoption rates may reflect demographic challenges. Pew Research data demonstrate that a prevailing barrier to home broadband adoption is household income.⁷ U.S. Census data reveals that the median income for American Indian and Alaska Native households is lower than the median income for Black, Hispanic, and White households.⁸ These collective data would

⁵ *Schools and Libraries Universal Support Mechanism: Notice of Proposed Rulemaking*, Docket No. 02-6, FCC 21-07, at para. 6 (2021).

⁶ “A Broadband Imperative: Equitable Opportunity for Tribal Communities through Libraries,” American Library Association, at 2 (2018) (<https://www.ala.org/advocacy/sites/ala.org/advocacy/files/content/telecom/TribalBroadband.pdf>) (visited Nov. 4, 2021).

⁷ *Internet/Broadband Fact Sheet, Internet & Technology*, Pew Research Center (Apr. 7, 2021) (<https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>) (visited Apr. 21, 2021).

⁸ See, Deidrick Asante Muhammed, Rogelio Tec, and Kathy Ramirez, “Racial Wealth Snapshot: American Indians/Native Americans,” National Community Reinvestment Coalition, *citing* 2013-2017 U.S. Census Bureau

indicate the likelihood that home broadband adoption in Tribal lands lags behind national averages. Indeed, the Congressional Research Service (CRS) found that “[h]igh poverty rates and low income levels” in Tribal regions are “major factors” in reduced broadband access in those areas.⁹ Moreover, the CRS identified overall significantly lower levels of broadband access in Indian Country as compared to urban and rural areas in the United States.¹⁰

Much work remains to achieve better broadband deployment in Tribal lands that will support greater home broadband adoption rates, and attention must be paid as well to ensuring that services atop those networks are affordable to residents of Tribal lands facing the economic challenges noted earlier. The Bureau of Indian Affairs reflects, “The barriers to Tribal broadband deployment are varied and can be found across sectors,” and include, “a lack of financial investing in Tribal communities and the immense geography in question to complex and burdensome regulatory environments . . .”¹¹ At the same time, accurate data on broadband deployment in Tribal lands is lacking: in 2018, the Government Accountability Office (GAO) concluded that Commission data “do not accurately or completely capture broadband access on Tribal lands.”¹² Importantly, the Commission has scheduled a Broadband Data Collection Tribal Governments’ Technical Assistance Workshop for later this year.¹³ And, recent COVID-19 relief

American Community Survey (Nov. 2019) (<https://ncrc.org/racial-wealth-snapshot-american-indians-native-americans/>) (visited Nov. 4, 2021).

⁹ “Tribal Broadband: Status of Deployment and Federal Funding Programs,” Congressional Research Service, at I (2019) (<https://sgp.fas.org/crs/misc/R44416.pdf>) (visited Nov. 4, 2021) (CRS).

¹⁰ *Id.*, at 2, *citing*, FCC Communications Marketplace Report.

¹¹ “National Tribal Broadband Strategy,” Bureau of Indian Affairs, U.S. Department of the Interior, at 1 (Jan. 2021) (<https://www.bia.gov/sites/bia.gov/files/assets/as-ia/doc/2020.%20December.%20National%20Tribal%20Broadband%20Strategy%20FINAL-cover%20change.pdf>) (visited Nov. 4, 2021).

¹² “Broadband Internet: FCC’s Data Overstate Access on Tribal Lands,” U.S. Government Accountability Office, GAO-18-630, at a (<https://www.gao.gov/assets/gao-18-630.pdf>) (visited Nov. 4, 2021).

¹³ Public Notice: “FCC Announces Initial Workshop to Provide Broadband Data Collection Technical Assistance to Tribal Governments,” Federal Communications Commission, Docket No. 19-195, DA 21-1332 (Oct. 25, 2021).

actions have led to renewed interest in ensuring broadband access on Tribal lands, with the a dedication of substantial resources to support broadband in Indian Country.¹⁴ NTCA submits that the proposed amendment to the E-Rate rule will capitalize on these efforts by fortifying the opportunity for Tribal libraries to participate in these gains. At the same time, however, it is useful to note that the rule changes will benefit also Tribal libraries and residents in areas such as those served by NTCA members where broadband is already deployed, enabling exponential benefits for their communities.

As demonstrated by NTCA member data, broadband deployment in rural spaces is strong where tailored public policies reinforce local commitment to broadband deployment. Moreover, these achievements, specifically, deployments that enable nearly 70% of NTCA member subscribers to obtain speeds of 100 Mbps,¹⁵ are recorded *without regard* to the provider’s corporate organization or specific affiliation with the Tribe or other governing authority. Stated differently, the accomplishments of NTCA member providers are rooted in the fact that they are locally operated companies, rather than any distinction drawn between their respective corporate organization as “commercial” or “not for profit cooperative” (more than 50% of NTCA are, in fact, commercial entities). Moreover, data extrapolated from NTCA’s most recent survey of its members reveals that its members serving Tribal lands (whether Tribal or non-Tribal owned) can deliver, on average, Gigabit broadband to 50% of the locations in their incumbent serving areas.

By way of example, Golden West Telecommunications (Wall, SD) has actively deployed fiber-to-the-home (FTTH) networks across the Pine Ridge Reservation, one of the largest land-

¹⁴ See, *i.e.*, “Tribal Broadband Connectivity Program,” BroadbandUSA, National Telecommunications and Information Administration (<https://broadbandusa.ntia.doc.gov/resources/grant-programs/tribal-broadband-connectivity-program>) (visited Nov. 4, 2021).

¹⁵ “Broadband/Internet Availability Survey Report,” NTCA–The Rural Broadband Association, at 2 (Dec. 2020) (<https://www.ntca.org/sites/default/files/documents/2020-12/2020%20Broadband%20Survey%20Report.pdf>) (visited Nov. 5, 2021).

mass reservations in the United States. Sixty percent of the population is currently served by FTTH, and Golden West plans to complete FTTH to the remaining areas by 2023. Golden West serves other reservations, as well, including the Lower Brule Reservation; respective efforts each by Golden West and Tribal-owned Cheyenne River Sioux Telephone Authority have resulted in FTTH deployment to the entire reservation. Midstate Communications (Kimball, SD) and Venture Communications (Highmore, SD) have completed FTTH deployments at the Crow Creek Reservation, and Tribal lands of the Sisseton Wahpeton Sioux are served by FTTH provided by Venture Communications and Interstate Telecommunications Cooperative. These are but some examples of instances in which non-Tribal companies have worked with Tribes to deploy state-of-the-art communications services in rural Indian Country that equal, if not surpass, what is available in many urban areas around the United States.

And, yet, notwithstanding the impressive deployment achievements of NTCA members, the collective data compiled by Federal and private sources underscore the need to bridge remaining gaps in Tribal lands. The Commission's proposal to update its rules to reflect current statutory definitions of the LSTA, and by extension ease the way for Tribal libraries to access critical funding, is a common-sense measure that should clear the way for Tribal libraries to invest more deeply in important broadband services. Libraries are critical community institutions that support students' educational needs, early childhood programming, job search and continuing education resources for adults, and vital engagement opportunities for senior citizens.

An informal survey of NTCA members serving Indian Country reveals the diversity of Tribal libraries and their foci. Some fit neatly within common definitions and impressions that many observers would attach to "library." Others, such as those in the lands served by Gila River Telecommunications, Inc., are housed in Boys & Girls Clubs, and serve as important resources

for young people for social and educational endeavors. Other Tribal libraries support job search and digital literacy programming. And, in New Mexico, libraries support students such as those from the Mescalero Apache School who captured a \$20,000 Samsung Solve for Tomorrow award. The nationwide competition develops STEM research and applications. Student members of the Mescalero Apache STEM Group addressed the nutrition needs of the local elderly and developed solar-powered aquaponic systems to grow vegetables. The school is served by Mescalero Apache Telecom, a Tribally owned broadband provider.

At this point, NTCA also comments on the Commission’s focus on digital equity and inclusion, and the interest in ensuring that Indigenous and Native American persons, *inter alia*, have access to the broadband facilities and supported services envisioned in this instant notice. NTCA supports this inquiry and applauds the Commission’s interest in ensuring that its policies create broad opportunities for broadband engagement and inclusion. As noted in a recent report issued by NTCA on these issues, “efforts to narrow adoption gaps are important because broadband-enabled applications can mitigate particularly rural conditions surrounding economic development, education, healthcare and other services.”¹⁶ These imperatives are no less important in Tribal regions, where increased digital inclusion will yield economic, educational, and healthcare outcome improvements.

III. CONCLUSION

WHEREFORE the reasons stated herein and above, NTCA commends the Commission to update the definition of “library” in the Commission’s rules to clarify that Tribal libraries are eligible to obtain Universal Service Fund (USF) E-Rate funding. This step will help to ensure

¹⁶ Joshua Seidemann, Roxanna Barboza, *Rural Imperatives in Broadband Adoption and Digital Inclusion*, Smart Rural Community, at 22, 23 (Arlington, VA) (2021) (<https://www.ntca.org/sites/default/files/documents/2021-09/09.01.21%20SRC%20Adoption%20Inclusion%20Web%20Final.pdf>) (visited Nov. 9, 2021).

that Tribal libraries have access to resources that will enable their fulfillment of critical services in their communities.

Respectfully submitted,

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