

Remarks to National Congress of American Indians

Tom Wheeler | March 12, 2014

Thank you President Cladoosby for that introduction, and thank you for inviting me to speak today.

It's an honor to address such a distinguished gathering of Tribal leaders, including members of NCAI's Board, and the regional Vice Presidents from across Indian Country.

Special thanks to Jackie Johnson, and the Co-Chairs of your Technology and Telecom Subcommittee, Loris Taylor and Matt Rantanen, who, along with President Cladoosby, met with me yesterday. In our discussion, I learned what it means to be a federal trustee for Tribal Nations, and I look forward to upholding that critical responsibility.

Finally, thank you to the FCC team who are here today, notably the head of our Office of Native Affairs and Policy, Geoff Blackwell, for all of their important efforts.

I may be relatively new to my job at the FCC, but I'm not new to the communications challenges facing Indian Country. I was present at White Mountain during the first delivery of phones under the Lifeline program. I can also say that, thanks to my son's interest in pow wows, I have been on Reservations from the Dakotas to Arizona.

From a policy point of view, my experience is that there's generally no shortage of awareness around Tribal issues. But when it comes to closing the gaps in opportunity and infrastructure that plague many Tribal communities, there's a persistent deficit of meaningful achievement.

So, as your top trustee at the FCC, today I'd like to visit with you about some of my goals as Chairman and how we can effectively work together as partners to help you better educate

your children, connect your communities, and provide the technology infrastructure for your businesses and future economic ventures. Specifically, I want to emphasize the importance of establishing a reinvigorated Tribal consultation process to address three primary goals:

- (1) improving access to world class broadband infrastructure;
- (2) access to spectrum, and
- (3) ensuring a diversity of voices in Indian Country.

There are of course other important issues that we will also work on together, but these are the priorities we have heard from you.

It all begins with consultation. I know there have been problems stemming from budget cuts. That only means we will have to work that much harder. Geoff Blackwell and I have agreed, collaboration is the first step, but collaboration must lead to results. And that means that the collaboration must begin with identifiable, tangible goals.

Like no technology before it, high-speed Internet, both wired and wireless, has the capacity to overcome the history of isolation that has limited opportunity in Tribal communities.

In nations around the world, Internet connectivity is bringing economic opportunity to rural areas. There is a clear and undebatable fact: economic opportunity begins with network opportunity.

The same applies to the delivery of essential services. If you're online, you can consult with world-class doctors hundreds of miles away or use mobile technology to monitor an illness 24-hours-a-day. If AP Physics or Calculus isn't being offered at your school, distance learning allows you to take those classes remotely.

Tribal communities stand to benefit the most from this new network revolution, as they are the least connected parts of the country. But while the opportunities are great, so are the challenges. Our analysis estimates that the percentage of Americans in rural Tribal communities

without access to fixed broadband is 8 times higher than the national average. That is simply unacceptable.

In the information age, the costs of this digital divide are enormous. Lack of access to broadband means lack of access to job opportunities. Lack of access to broadband means lack of access to 21st century health care. Lack of access to broadband means lack of access to digital learning.

And lack of access to broadband isn't the only challenge. We recognize that a significant number of Americans on Tribal lands still haven't adopted phone service.

So what do we need to do?

It all begins with a strong and healthy relationship between the FCC and Tribal leaders. The Commission and your Nations share a unique trust relationship. We have built successful opportunities at the Commission when we have drawn upon that relationship and your status as sovereigns. But we have much more work to do. We hear all the time about the next-generation of technologies. Well, as partners in this unique relationship, now is the time for the next-generation of consultation between the FCC and Tribal Nations.

Among multiple goals and principles, our Tribal Consultation Policy states that "...The Commission, in accordance with the federal government's trust responsibility, and to the extent practicable, will consult with Tribal governments prior to implementing any regulatory action or policy that will significantly or uniquely affect Tribal governments, their land and resources." That Statement was adopted 14 years ago, and we could agree that since then it has been utilized quite successfully, but not consistently or comprehensively. We will utilize consultation everywhere within the Commission that matters to Indian Country. And with purposeful objectives, like ensuring that our programs to support broadband infrastructure deployment and adoption in Tribal communities are working at their maximum potential.

This all begins with getting out of Washington. Productive working relationships have healthy and robust routines, and we will strengthen our routine by going to where your challenges exist. After having to stop this practice as a result of sequestration, experts from throughout the Commission will again be coming to Indian Country, to engage on immediate opportunities and actions, such as the Tribal Priorities opportunity in broadcast licensing and making sure the first year outcomes of our Tribal government engagement rules are working to the benefit of Tribal communities. Smarter decisions and better outcomes will follow.

The Commission has come a long way in its understanding of Indian Country. We also know that you, as Tribal Leaders and governments, face our common issues not just as individuals or consumers, but as Nations on behalf of your citizens. We recognize that you see the obstacles to deploying 21st Century technologies platforms as impediments to building your Nations' abilities to govern, protect, and provide for your communities.

The Office of Native Affairs and Policy (ONAP) is the Commission's institutional mechanism to ensure that your concerns are considered as part of the policy making process across the agency. Geoff Blackwell and his team have provided me with a comprehensive plan to reinvigorate the Commission's consultation and training efforts with you, complete with policy priorities and goals. We will move with speed and purpose to implement a robust consultation and training program in all regions of the country. Starting immediately. And I want to come back to Indian Country to discuss this with leaders and see things first hand, beginning next month in the North Plains and later in the Southwest.

In building the next generation of consultation, I want to ask you to get your administrations involved. This is a call to action on all the issues, to get involved in the details of the proposals, and work with us to find your genuine answers. Please identify to us who your point people are. Your community planners and policy representatives need to build relationships with ONAP now.

We are also moving to refresh and strengthen our FCC-Native Nations Broadband Task Force, which is Co-Chaired by former NCAI President Joe Garcia. I am happy to announce that today the Commission will release a Public Notice seeking nominees from your governments to seat a reinvigorated second Task Force in the summer. The Task Force has important work, including acting as a sounding board for FCC proposals and developing additional recommendations for broadband deployment and adoption. We hope and expect that many members will recommit, but we also need more regional representation from across Indian Country, and the inclusion of more subject matter experts from new areas of Tribal government institutions. So, I want to encourage you to help us look in every corner of Indian Country for new Task Force members.

The bottom line is we are strongly committed to working with Tribal Nations through meaningful and vigorous efforts on a regular basis in all regions of the country. And we are committed to ensuring that Tribal concerns are appropriately considered and addressed in the Commission's efforts. We know that in Indian Country no "one size fits all," especially when it comes to sustainability. So we don't view success as coming up with one or two standalone Tribal projects, issuing a press release and declaring success; success is when we have Tribal opportunities directly infused into all of our relevant policy making decisions based on direct input from Tribal Nations.

Success is a collaborative relationship that produces results. When I look at for the kind of results that are possible, a number of goals are top of mind. As we collaborate more closely, I'm hoping to hear your perspectives on the priority you place on these goals.

Goal number one: broadband infrastructure expansion. Getting high-speed broadband connections to every home, every business, every school and library, every healthcare provider, and every 911 center, in all corners of the country, is a top priority for the Commission. Nowhere could meeting this objective be more impactful than on Tribal lands.

So what are the steps that can get us there? Let me start with the Commission's Connect America Fund, America's largest broadband infrastructure program. This year, we are poised to move forward with Phase Two of the Connect America Fund. Phase Two will provide nearly \$2 billion annually in support for broadband deployment in areas served by our nation's largest telcos. That includes carriers that serve many parts of Indian Country. Before implementing this program, and of particular interest to Tribal Nations, we intend to make significant funding available for rural broadband experiments. The initiative is designed to elicit proposals from all comers, including Tribal governments, to learn what types of entities, in addition to incumbent carriers, are interested in building networks in unserved areas.

I encourage Tribal governments and Tribal entities to learn more about this opportunity and to consider developing proposals for rural broadband experiments. We are already receiving initial expressions of interest, including several that propose to serve Tribal lands, although formal proposals will not be due until later in the year. For those Tribal Nations that own their own carriers, we hope that you, too, will participate in this opportunity. We are also seeking comments at this time concerning the criteria by which we should evaluate potential rural broadband experiments. We have specifically invited comment on how proposals submitted to provide service on unserved portions of Tribal lands should be considered. We're holding a rural broadband workshop at the FCC on March 19th. This is a perfect opportunity to set the debate in terms of how broadband access will spread through your territories, and I hope you will participate both in this workshop and more generally as we develop the final rules and initiate the formal proposal submission process.

In addition, we recently concluded the first ever Tribal Mobility Fund reverse auction. We anticipate that when all is tallied, that auction will provide up to \$50 million in one-time funding support for wireless infrastructure on Tribal lands where 3G or 4G wireless does not exist. Combined with the \$22 million that went to carriers serving Tribal lands in the 2013 Mobility Fund, we anticipate that up to \$72 million out of \$350 million nationwide will be used to deploy critical mobile broadband service to Tribal lands.

As we continue to move forward with these programs, we are also implementing the Tribal government engagement obligation adopted in the Commission's landmark 2011 *USF Transformation Order*. For the first time, providers that receive universal service subsidies are required to engage in genuine dialogue on an annual basis with the Tribal governments on whose lands they serve. The Tribal government obligation is still relatively new and covers topics critical to deployment on Tribal lands, such as feasibility planning, sustainability planning, and compliance with federal and Tribal laws. I encourage you to share your experiences. Where it is working well, let's work together to replicate that success. Where progress is stalled, let us know how we can help make sure carriers comply with the rules.

As part of our universal service reforms, we are also modernizing our E-Rate program. E-Rate has been an invaluable asset in bringing telephone and Internet access to all schools and libraries across the country, especially in parts of the country with historically low rates of connectivity, such as on Tribal lands. So far, E-Rate has brought basic connectivity to educational facilities in Indian Country, but it is time to modernize the E-Rate program to prioritize bringing high-speed broadband connectivity to educational facilities in Indian Country. One particular focus is to make sure E-Rate funds are equitably distributed to all eligible entities—including rural schools and libraries on Tribal lands—in order to reduce the digital divide that continues to plague so many parts of rural America, and especially Indian Country. This is a top priority for the Commission.

Even today, most schools operated by the Bureau of Indian Education have, at best, a few T1 lines providing Internet access to their entire student bodies. And I know this isn't limited to BIE schools. If this sort of legacy technology is no longer good enough for our businesses and homes, it's certainly no longer good enough for our schools and libraries. All of our students, whether they are attending, for example, the Lone Man School on Pine Ridge, the Jack Norton School on Yurok or the Santa Fe Indian School, deserve to have full access to all the digital education tools our society has to offer.

I urge you to work with us as we tackle this challenge that brings such promise to your children and communities. Just as with my call for active engagement with the Connect America Fund and the rural broadband experiment process, please share with us your ideas to make E-Rate work better for your communities. In fact, we released a Public Notice last week seeking focused comment on E-Rate modernization. We need your input to ensure that the E-rate program brings 21st Century connectivity to Indian education.

The issue of broadband infrastructure expansion on Tribal lands is critical to the future of your communities because it can unlock so many other benefits. But there are several other important goals we should strive for.

Goal number two is to free up more spectrum, both licensed and unlicensed, on Tribal lands. Increasingly, when we talk about broadband connectivity, we're talking about wireless. We will be bringing more spectrum capacity to market, including on Tribal lands.

Thanks to some great work that ONAP and the Wireless Bureau have done, we will launch a new and comprehensive consultation in a few weeks to attack the spectrum access problem in Indian Country. I have told the NCAI leaders that I want to look for new opportunities to expand wireless reach in Indian Country, including seeking opportunities for a new business relationship between those who have bought rights to the spectrum and the Tribes over whom that spectrum runs.

This brings me to an opportunity for your Tribal Nation waiting right now at the Commission.

Goal number three is to ensure that the diversity of broadcast voices in Indian Country better reflects the diversity of human voices in Indian Country. The groundbreaking Tribal Priority in the Commission's radio broadcast licensing rules make a critically important, affordable, long-adopted technology a wide open opportunity for Tribal Nations. Tribal stations are unique

voices in the diversity and localism landscape of the radio dial, and the full power commercial FM rules allow a Tribe to apply for a channel at any time. This provides Tribal Nations the ability to preserve and advance their languages and cultural values through a communications medium, to increase economic development opportunities through advertising and promotion, to provide job training and employment, and to promote the further adoption of new technologies, such as broadband. You could apply for a full power commercial FM broadcast license tomorrow.

I have talked a lot about infrastructure on Tribal lands today. I would be remiss if I didn't also touch briefly on the issue of Positive Train Control, or PTC. PTC is the technology mandated by Congress to be on every railroad train by 2015 to prevent crashes. Such an innovation, however, requires antenna siting. It is currently our top cultural preservation priority and needs your involvement to be successful.

PTC has the power to save lives, prevent injuries, and avoid extensive property damage on railroads. We are working closely with Tribal Historic Preservation Officers and the railroads alike to craft a special process with the Advisory Council on Historic Preservation that will ensure Tribal Nations the ability to review PTC infrastructure for their potential impact on sacred cultural properties, and also facilitate the railroads' ability to timely deploy this very important rail safety service. This is not an easy endeavor – the time is short and the work involved is great. I would like to express my appreciation for the work of your preservation experts who have been engaged on PTC, and ask for their continuing commitment to working together to enable the deployment of this critical public safety technology within the timeframes mandated by Congress.

Let me close with this. Early on, I said that our trusteeship gives you the right to expect and demand more of the Commission when it comes to tackling the communications challenges in Indian Country. I'm calling on you to do the same. In the past, there's been a lot of good work by people of good will, but we need to be results-oriented. Maintaining the status quo isn't

good enough. We need next-generation consultation between the FCC and Tribal communities. But the next-generation of consultation will only work if we work together on identifiable, measurable goals.

Yes, the challenges before us are great; but, working together, we will seize the opportunities of the new network revolution to improve lives across Indian Country.

Thank you.