

**Statement of Jonathan Adelstein,  
Administrator**

**USDA Rural Utilities Service**

**Testimony on “Federal Communications Commission’s rule on the Universal Service Fund  
and its impact on American Indians and Alaska Natives”**

**House Natural Resources Subcommittee on Indian and Alaska Native Affairs**

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Chairman Young, Ranking Member Boren and Members of the Committee, I appreciate this opportunity to discuss the efforts of the United States Department of Agriculture’s (USDA) Rural Utilities Service (RUS), to encourage broadband deployment to rural and native communities, as well as the role the federal Universal Service Fund (USF) plays in our telecommunications programs, including those projects financed under the American Recovery and Reinvestment Act.

The RUS is a policy, planning and lending agency of the USDA. The agency makes loans, loan guarantees and grants available to finance rural electric, telecommunications and water and wastewater infrastructure. These investments are necessary to build sustainable local and regional economies and to attract and leverage private capital in rural and tribal areas.

RUS is one of three USDA Rural Development (RD) agencies. The Rural Housing Service offers programs in housing and community facilities. The Rural Business Service offers business development and finance programs. Together, RD agencies work very hard to help communities improve their quality of life and assemble the building blocks of long term economic growth.

Nowhere is this RD assistance more needed than in America's native communities. RD is fully committed to improving the flow of investment into tribal lands and underserved areas. Our first Americans deserve a quality of life comparable to that of all Americans. Our President, Secretary and Undersecretary have made improving program delivery to native communities a very high priority, as our programs generally place the highest priority on communities in the greatest need. At RUS, thanks to the leadership of many members of this Committee, we have a renewed and special emphasis on financing critical infrastructure services to un- or underserved native communities.

RD agencies have a long history of investing in tribal economies --- RD investments exceeded \$3.2 billion from 2001 to 2011, with \$1.5 billion of that total delivered through investments since 2009, under the current Administration. Each state-level USDA Rural Development office maintains a Native American Tribal Coordinator to assist tribes by providing technical assistance and programmatic knowledge throughout the application process.

RD agencies and staff also work in cooperation with tribal governments and partner with other federal agencies such as the Department of Health and Human Service's Indian Health Service, the Department of the Interior's various Bureaus and Offices, the Department of Homeland Security, Department of Commerce, the Environmental Protection Agency, the Small Business Administration, the Department of Housing and Urban Development and of course the Federal Communications Commission.

As a result of these combined efforts, the RUS is committed to helping American Indian, Alaska Native and Native Hawaiian communities obtain affordable and robust broadband services needed to attract investment capital and new business ventures unique to native cultures.

The RUS is very proud of its record in working directly with tribal communities. We are especially pleased that RUS has provided loans and grants to 8 of the nation's 10 tribally-owned regulated telecommunications carriers. RUS also provides financing to non-native telecommunications service providers offering services to tribal communities. Because the RUS understands the importance of our government-to-government relationship with tribal elected officials, it has provided innovative legal solutions, loan documents and security arrangements which recognize tribal sovereignty, while still providing for tax dollar accountability.

Recovery Act investments in broadband are creating high-skilled, high-wage jobs and will pay dividends to their communities and the nation in terms of further job creation and faster economic growth for years to come. RUS Recovery Act investments, known as the Broadband Infrastructure Program (BIP), remain a key component to the Obama Administration's economic recovery strategy. I am pleased to report that the program is working, with projects that are on schedule, on track and creating jobs in tribal communities and across rural America. Recovery Act financed networks will create jobs when projects are planned and built, when they become operational and again as new networks are used by communities to create digital-era jobs, open new markets, and expand tourism.

The Recovery Act represented an unprecedented opportunity for long un-served communities to gain new or expanded broadband service. In two rounds of funding, service to the most underserved received priority points. I am pleased that a number of excellent projects serving tribal communities took advantage of this once in a lifetime opportunity. Still, a number of worthy projects, including some that would have benefitted tribal communities, could not be funded given the tremendous demand and competition for Recovery Act dollars.

More than \$2.33 billion in grants and \$1.19 billion in loans were made to 320 projects totaling over \$3.5 billion. Of those 320 projects, 36 infrastructure and technical assistance awards were to entities serving American Indian and Alaska Native communities, totaling investments just over \$214 million. Tribal communities did very well, for example, in competing for the technical assistance grants where tribes won 12 of 19 grants awarded along with 8 BIP infrastructure awards to tribes and tribally owned enterprises. The RUS also set aside \$100 million for satellite awards, which help reduce costs of satellite delivered broadband to those Americans lacking any broadband access, even after all Recovery Act awards are taken into account.

When complete, Recovery Act broadband investments will connect nearly 7 million rural Americans, along with more than 360,000 businesses and more than 30,000 critical community institutions like schools, healthcare facilities, and rural public safety agencies, to new or improved service. The projects funded will bring broadband service to 2.8 million households, spanning across more than 300,000 square miles in 45 states and 1 U.S. territory.

Recovery Act broadband projects are estimated to create more than 25,000 immediate and direct jobs for rural workers in a variety of industries. The projects will provide service to 31 distinct tribal lands in the lower 48 states and 125 persistent poverty counties.

Making BIP awards was only part of the agency's Recovery Act work. Getting BIP projects built and across the finish line in the time frame provided is no small feat, especially in native communities. As part of our Recovery Act efforts, RUS identified all BIP projects on Indian lands that needed additional agency coordination for completion. To ensure that the Recovery Act investments comply with historic preservation, land use and cultural resource requirements under the National Environmental Policy Act and Section 106 of the Historic Preservation Act, the RUS worked closely with the Department of Interior's Bureau of Indian Affairs (BIA) and Office of the Special Trustee (OST) to advance these projects through the review process. The United States has a special relationship with tribes regarding lands held in trust for tribes and their members that require extra attention. The RUS works to assist our borrowers and grantees in following the proper procedures in accessing trust lands. We maintain open lines of communications with BIA and OST so that Recovery Act projects are completed and tribal communities can finally receive the benefits of expanded broadband.

One example of the RUS working proactively to assist our BIP borrowers/grantees with projects crossing Indian lands took place in the fall of 2011, when the agency offered training on rights-of-way acquisition and land process associated with trust land. This training was developed with the help and knowledge base of the Department of Interior's OST and the BIA. RUS' Environmental Team members also participated in this training and have become adept at

identifying tribal issues that might require the agency and USDA's Office of Tribal Relations (OTR) to work with our colleagues at BIA to resolve.

I raise this example because this simple training initiative developed by RUS has led to further assistance provided to BIP recipients who were not familiar with some of the procedures necessary for working on Indian lands. It also is a living example of President Obama's instruction to executive branch agencies to work together to coordinate Recovery Act implementation. Working with BIA over the past year has provided multiple success stories, such as the Kit Carson Electric Education Foundation project in New Mexico which will cross two pueblos, when complete. This project was awarded \$19 million in loan and \$44 million in grant resources. By facilitating dialogue between the two Departments and the developers on complex rights of way issues, a much needed project is moving toward completion.

The RUS has long focused on the need to connect native and rural communities to a broadband future. The RUS has several standing programs which support broadband deployment. Our traditional telecommunications infrastructure loan program, authorized in 1949, was created to ensure rural areas had access to reliable and affordable telecommunications systems that were comparable to those in urban communities.

Beginning in the 1990s, RUS required that telecommunications borrowers to build broadband capable networks to facilitate the use of advanced services. Since 2009, this program has provided broadband service to nearly half a million rural tribal subscribers. For example, in December of 2010, RUS provided a \$37.9 million loan to the Cheyenne River Sioux Tribe

Telephone Authority in South Dakota to complete a fiber-to-the-premises buildout, providing broadband services to homes and businesses necessary to meet growing demand, create jobs and spur economic development. More recently, a Telecommunications infrastructure loan helped Sacred Wind Communications secure new and improved broadband service throughout Navajo Nation Chapters within New Mexico. This investment continues to expand access to education, health care services, job opportunities and small business marketing tools within those Navajo communities.

The RUS Broadband Loan Program, first authorized under the 2002 Farm Bill, and revised by the 2008 Farm Bill, makes broadband network financing in rural areas a reality for providers seeking to build high capacity systems in rural underserved areas.

The RUS also administers the Community Connect grant program. While relatively small, applicants seeking to serve tribal communities have done very well under this program, which provides grant funding to communities with no access to broadband service. This program has made 49 awards to tribal communities totaling \$25.6 million since the implementation of the program in FY 2002. Funds are used to build broadband infrastructure and awardees are required to establish community centers that offer free public access to broadband as well as connect community anchor institutions to free broadband services for two years. On May 3, the RUS announced over \$10 million in funding is available for new applications in FY 2012.

An excellent example of a project funded by the Community Connect program is the Sacred Wind Communications project in New Mexico. They were awarded a \$436,461 grant to provide

phone and Internet service to residents in Huerfano. The grant resulted in a new computer training center for public use. The grant also resulted in the installation of telephones in all community buildings, broadband service in the tribal school and other facilities and a new computer training center for public use. As a result of these investments, educational programs are available for all residents, health care services and job information is accessible, and the community can communicate with the rest of the world.

Another RUS program that is changing the lives of Native Americans is the Distance Learning and Telemedicine (DLT) grant program. This week, Agriculture Secretary Tom Vilsack announced awards for over 50 distance learning and telemedicine projects that will increase access to health care and enhance educational opportunities to rural communities and tribal areas in 29 states. With these awards, over the life of the program, USDA will have provided half a billion dollars in Distance Learning and Telemedicine program funding to benefit rural communities and Tribes nationwide. A substantial portion, 230 awards for \$100 million, went to improve educational or health care services to native communities.

With a combined portfolio of over \$6 billion in telecommunications investments alone, the RUS has a deep understanding of the costs, challenges of distance, density and geography to build out these systems. We also have witnessed lives transformed, communities enlivened and futures secured when affordable, reliable and robust utilities services finally arrive to communities that have been asked to wait far too long to enjoy the benefits of modern life and the rewards of the digital economy.



A good example of how USDA Rural Development programs can improve the economy and quality of life in native areas is the Warm Springs Indian Reservation in central Oregon. About 10 years ago, the leadership of the Confederated Tribes of Warm Springs realized that their community severely lacked telecommunication services. Tribal leaders commissioned an assessment of the community's needs and formulated a strategic plan, which identified the present telecommunications services and the capabilities needed to upgrade services on the tribal land. The report identified Public Safety Radio, basic telephone service, and broadband Internet access as the most critical priorities. It also highlighted the fact that only 63 percent of tribal members had basic telephone service and that even fewer had broadband Internet access.

The overwhelming task of bringing broadband Internet access and basic telephone service to the reservation was made easier when the Confederated Tribes of Warm Springs discovered the USDA Rural Development Community Connect grant program. In 2002, the Tribes received a grant for \$695,832 to build a small fiber network on the reservation that now links together the Health and Wellness Center, the Community Counseling Center, the Head Start/pre-school building, many schools, and other tribal administration buildings. The grant also funded the creation of a technology center that allows tribal members to access the Internet 24 hours a day.

Next, the Warm Springs Telecommunications Company (WSTC) was created. As the WSTC was designing their network and exploring potential funding options, RUS began the BIP program under the Recovery Act.

In 2010, WSTC was selected for a \$5.4 million award to construct a hybrid fiber/wireless network throughout the reservation to connect critical facilities, including the administrative buildings, schools, health care facilities, all police/fire and public safety radio towers, and Kah Nee Ta (the tribal resort). When this project is complete, broadband service will be available to all residents, government agencies and businesses. Additionally, the WSTC was awarded a \$200,000 Technical Assistance grant in 2010, also under BIP, to continue the planning process of building the new telecom network.

The new network will provide students with access to school assignments and allow them to submit homework online from their homes. College students will be able to live on the reservation and conduct research or take distance learning courses without having to travel great distances. Broadband internet access can help reduce the chronic unemployment that faces the residents. The new network continues to indirectly contribute to employment growth by allowing community members to pursue new, previously unavailable career opportunities, such as selling their artwork online or starting other online, home-based businesses.

New telemedicine applications, which rely on broadband, will allow for quick and easy consultations with medical professionals. Tribal members will be able to meet with specialists at Oregon Health Sciences University in Portland. Diabetics will be able to connect to clinics for monitoring.

The new broadband network will support and improve the interoperable public safety radio network that has been upgraded with U.S. Department of Homeland Security grants. The

network will link together the funded towers with new radio equipment so that police and fire departments can better protect the people of the Confederated Tribes of Warm Springs as well as the citizens of Oregon who visit Kah Nee Tah, the Tribes' resort. The moral of the story is that with work, commitment, planning, persistence and partnership with RUS and other public and private entities great things can happen and entire communities can be transformed.

Since the start of this Administration, the RUS has placed a specific focus on expanding outreach to and expanding service across tribal communities. RUS has taken historic measures to make its utility loan and grant programs more accessible to those serving and residing in tribal areas through the implementation of the Substantially Underserved Trust Area (SUTA) provisions of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). I know members of this Committee have been advocates of the SUTA provisions in the 2008 Farm Bill, and I thank you for your leadership.

The RUS published a proposed rule implementing the SUTA provisions in the federal register in October 2011 and accepted comments through December 14<sup>th</sup>. The final SUTA rules are slated for publication very shortly and will apply to the agency's main programs.

With the publication of the final rule, SUTA provisions will be available in following RUS programs:

- Rural Electrification Loans and Guaranteed Loans, and High Cost Energy Grants;
- Water and Waste Disposal Loans, Guaranteed Loans, and Grants;
- Telecommunications Infrastructure Loans and Guaranteed Loans;

- Distance Learning and Telemedicine Loans and Grants and:
- Broadband Loans and Guaranteed Loans.

The SUTA provisions include the three discretionary tools: 1) The Agency may make loans and guarantee loans with interest rates *as low as* 2 percent and with extended repayment terms, 2) it may waive non-duplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program to facilitate construction, acquisition or improvements of infrastructure, and 3) agency may give highest priority to designated projects in substantially underserved trust areas.

Like all of RUS's lending programs, the agency can and will only make loans or guarantee loans that are financially feasible and that provide eligible program benefits. It is our hope that the SUTA authorities will help make programs in substantially underserved trust areas more affordable and more likely to be financially feasible.

The SUTA rulemaking was historic because it was crafted based on a 2 year tribal consultation effort that included over 33 government to government consultations with native nations and tribal communities as well as all relevant federal agencies and Departments. Several of the 33 consultations were held in Alaska, Hawaii and the Western Pacific (Guam, Saipan and American Samoa), hosted by the Rural Development State Directors in each region.

RUS is proud to have hosted the first USDA Rural Development consultation with the Department of Hawaiian Homelands (DHHL) on January 27, 2011, on the SUTA provisions. The consultation included participants from all the Hawaiian Homelands.

As a lender, RUS must look at all available revenue streams to establish loan feasibility. Even with 2% interest, as would be possible under the new SUTA provisions, the ability to repay loans in remote, sparsely populated, low income areas is difficult. There are only three basic streams of revenue available to build a business case for broadband deployment; the rates paid by subscribers, the compensation received from other service providers when they use the rural network and payments from the Federal Universal Service Fund (USF). Many of the examples outlined in today's testimony demonstrate what is possible when those three revenue streams sync up to make advanced services available at affordable rates.

Last November, the FCC adopted new rules that begin to restructure existing federal Universal Service support mechanisms and Inter-carrier Compensation (ICC) rules. These reforms affect the distribution of high cost support under the Federal USF and the rates carriers may charge each other for use of each others' networks. They will also affect the rates carriers will charge their customers.

The FCC reform order also seeks to implement new USF rules which are directed toward those underserved areas of the US which are within the service territories of non-rural local exchange carriers. A significant number of tribal communities are within those service territories.

Some of the reforms have taken effect, others are expected to be effective later this summer and much of the reform effort remains subject to a notice of further rulemaking. It is still very much a work in progress. That said, USF support has been a vital revenue source for both rural telecommunications providers and tribally owned carriers.

Native and non-native rural local exchange carriers in tribal areas depend heavily on both USF and ICC revenues to maintain and upgrade existing networks.

At RUS we have a significant interest in the reform effort, and have been engaged in a continuing and productive dialog with the FCC about the financial and policy implications of the changing USF landscape.

Out of the 487 active borrowers in the RUS Telecommunications Infrastructure loan program, 99 percent receive federal USF support.

RUS is the primary lender to 9 of 12 tribally owned local exchange carriers in the US today, as well as a number of entities which service tribal communities. About 65 percent of RUS' Broadband Initiatives Program (BIP) awardees under the American Recovery and Reinvestment Act (ARRA) receive federal or state USF support and about 10 percent of the one hundred or so active RUS broadband loan recipients receive USF support.

At the FCC's request, RUS submitted a presentation into the FCC's USF reform docket in August 2011 outlining the potential impact of reductions in federal USF to the existing

telecommunications loan portfolio as well as lending decisions going forward for borrowers seeking to build broadband infrastructure in rural high cost areas. A copy of that presentation is provided for the record. RUS continues to examine the specific changes in USF and ICC on rural carriers and tribally owned carriers. We have asked RUS borrowers with pending loan applications to re-estimate their revenues based on the FCC order and the agency will continue to remain vigilant over revenue changes on individual companies within our portfolio.

The RUS, on behalf of the Administration, recommended that the FCC include a “safety net” or waiver process to give entities which made obligations to government based on a good faith reliance on the USF rules an opportunity to seek a restoration of support to avoid a default. A copy of that filing is also provided for the record.

And most recently, on Tuesday May 29<sup>th</sup>, I was part of a conversation that the Secretary of Agriculture and the Chairman of the FCC and other USDA and FCC staff had regarding the effects of the reform effort on rural consumers and the RUS telecommunications loan portfolio and program. A copy of the *ex parte* filing outlining that discussion is provided for the record. We agreed to continue our constructive dialog on these issues.

The RUS is proud of its investments in tribal communities and with the full implementation of the new SUTA provisions, looks forward to using the tools the Congress gave us to help bring broadband to every corner of rural America.

But make no mistake. Rural service is hard. Providing modern services to tribal communities are among the most difficult. That is why an agency like the RUS exists. I thank you for your interest in the RUS and thank you for your support of our agency and its mission.