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**Testimony on an Update from tribal leaders and tribal telecommunications providers on the implementation of the Federal Communications Commission's rule on the Universal Service Fund."**

**June 18, 2013**

*Chairman Young, Ranking Member Hanabusa, Members of the Committee:*

Good morning. My name is Steve Merriam. Thank you for the opportunity to testify today before this distinguished Committee on the subject "Update from tribal leaders and tribal telecommunications providers on the implementation of the Federal Communications Commission's rule on the Universal Service Fund."

I serve as the Chief Executive Officer of Arctic Slope Telephone Association Cooperative (ASTAC), the local exchange carrier serving the North Slope Region of Alaska. I have worked in the rural telephony field for the last eighteen years and hold a Bachelor of Science degree in Business Administration from the University of Vermont and a MBA, specializing in Telecommunications Management from Alaska Pacific University.

ASTAC serves eight Inupiat Eskimo communities and the oilfields of Prudhoe Bay, a land mass of over 89,000 square miles which is larger than 40 of the 50 United States. Our entire serving area is arctic, where we face rugged challenges due to extreme cold, inclement weather, lack of roads, and sparsely populated and widely dispersed communities. Despite these challenges, we have digital switching in all exchanges and offer 2G wireless voice and data service as well as DSL. Currently, seven of our nine exchanges have satellite middle mile backhaul to the world. This satellite middle mile is extremely expensive, has limited capacity and significant latency that precludes using many applications that the rest of the country takes for granted. But that is about to change.

A privately financed 32 Terabyte undersea fiber is being constructed to provide the lowest latency route between Asia and Europe by Arctic Fibre, with a scheduled completion date of mid-2015. It will pass offshore along the Seward Peninsula and the Northwest Arctic and North Slope Boroughs of Alaska and Quintillion Networks has exclusive rights to build fiber spurs into Alaska. Four of ASTAC's nine exchanges will immediately benefit from these landings which will provide a minimum of 100 Gb of capacity per landing.

In order to take full advantage of this generational opportunity to bring true broadband, with all its benefits to the Inupiat people, ASTAC will need significant upgrades to our legacy network. We are working with Rural Utilities Service to obtain financing to do so.

A potential impediment that could deny us the ability to borrow to upgrade our network is the capped support levels that are generated by the Quantile Regression Analysis Model (QRA), part of the FCC's USF Transformation Order.

The QRA remains fatally flawed in two areas. First, the FCC entered erroneous company data into the Model and has been resistant to correcting even obvious errors because of the ripple effect it would have across all companies' caps. Second, they have maintained a complete lack of transparency with the underlying methodology when asked to explain it by industry and Congress. This was of sufficient concern to RUS that in February 2013, their Acting Administrator Mr. John Padalino, asked the FCC to "provide RUS with confidential access to the regression model to assist USDA in managing its lending program." ASTAC is very concerned that we will miss our window of opportunity to secure capital to make infrastructure upgrades necessary for connecting to the fiber because of the current QRA model, which withholds high cost support for ASTAC and creates concerns for any lender.

Though the FCC has committed to trying to improve the QRA in 2014, it has done nothing to correct 2013 QRA errors which disadvantage our Inupiat members. Rural Alaska and its Native people have been systematically targeted, first with relegation by the FCC to satellite middle mile, an inferior technology, followed by arbitrary and capricious assumptions about serving the arctic that fly in the face of common sense. These assumptions are pilfering Native Alaskan high cost support. ASTAC has acted in good faith to try to educate the Wireline Competition Bureau on areas where their data or assumptions are wrong, with costly, limited success. We do not believe we can affect any more corrections, even with strong analysis and the merit of our requests for corrective action. When citizens, including Native Alaskans cannot get fair and equal treatment from a government agency, our only remaining remedy is to turn to our elected representatives for their intervention. That is my request today.

A first step to righting this wrong would entail limited correction of three variables, retroactive to January 1, 2013. This would raise the capped support amounts for ASTAC and other tribal serving companies in Alaska. The three variables are Percent Tribal, Climate and the negative Alaska capital expense coefficient.

Alaska was recognized as 100 percent Tribal by the Bureau of Indian Affairs in 1999. This designation was upheld by the FCC in designating all of Alaska as 100% Tribal for implementation of the Lifeline Program. Yet in the QRA, ASTAC is only 23% Tribal and no Alaska serving company is designated 100% Tribal. When we brought this to a Wireline Competition Bureau Deputy Chief's attention in July 2012, we were told that it was a mistake and they would correct it. 342 days later, we are still waiting for that correction.

The Climate variable is a predictor of climate's effect on construction and operating costs. The premise in the Transformation Order was the lower the temperature, the fewer frost free days and the higher the temperature, the more frost free days. More frost free days should lower construction and operating costs. ASTAC has the lowest average minimum temperature in the country. Our construction season is 75 to 90 days a year. We have to maintain service in the harshest climate in the country. It defies all logic then that we are receiving the lowest allowance in the country for both capital and operating expenses due to climate.

Henry Ford once said "Any man who thinks he can be happy and prosperous by letting the Government take care of him better take a closer look at the American Indian." Mr. Ford could have substituted FCC for government in his remark. The FCC stated that Alaska is unique and would be taken care of by assigning an Alaskan variable to account for our sparse, widely dispersed populations, short construction season, lack of roads, rugged geography and extreme weather. In taking care of Alaska with an Alaska variable, the FCC assigned a negative capital expense coefficient to all Alaska companies. This translates into a conclusion that it is 46% less expensive to construct in Alaska than the Lower 48 states. There is plenty of evidence that refutes this notion, including U.S. Corp of Engineers studies showing Alaska has significantly higher construction costs, but common sense alone should suffice.

In previous Indian Affairs and Commerce Committee hearings, the FCC Commissioners promised to correct these errors but by their inaction, the Wireline Competition Bureau seems entrenched in letting the flawed QRA model for 2013 run its course. Continued use of the QRA Model and the elimination of Intercarrier Compensation will perpetuate long term negative impacts for carriers serving tribal lands in Alaska. A comprehensive review of the effects of the reform process for rural carriers is needed.

As a first step, fixing the errors I have outlined here, retroactive to January 1, 2013 would give us some temporary relief and allow rural carriers serving tribal lands to move forward with projects. I urge you to make the FCC accountable to Native Alaskans, correct these egregious errors and broken promises without further delay, so that we can bring affordable true broadband to rural Alaska and its Native people.

Thank you for the opportunity to testify in front of this distinguished committee. I welcome any questions you may have.