



SOUTHERN UTE INDIAN TRIBE

August 28, 2020

Hon. Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515-6115

Dear Chairman Pallone;

Thank you for the opportunity to speak before the Committee on Energy and Commerce on Wednesday, July 8, 2020, at the hearing on "Addressing the Urgent Needs of Our Tribal Communities." On August 10, 2020 you provided me follow up questions from Rep's Anna G. Eshoo and Michael C. Burgess. I have enclosed copies of my responses.

Please let me know if you have further questions or if I can provide additional assistance.

Sincerely,

A handwritten signature in cursive script that reads "Christine Sage".

Christine Sage, Chairman
Southern Ute Indian Tribe

Committee on Energy and Commerce

**Hearing on
“Addressing the Urgent Needs of Our Tribal Communities”**

July 8, 2020

The Honorable Christine Sage, Chairman, Southern Ute Indian Tribe

The Honorable Anna G. Eshoo (D-CA):

1. To the degree this information is available and can be made public, which companies provide at-home broadband service to the Southern Ute Indian Tribe?

RESPONSE:

- a. For those in the Tribe who have at-home broadband, what are average prices and average speeds, if such data is available?

We have limited specific data on the share of Tribal Members with access to broadband in their homes. The coverage maps provided by the FCC are inaccurate and do not allow us to make that determination. Based on anecdotal evidence we would estimate that 70% of the population has access to some form of broadband. The costs for this service vary widely depending on the provider(s) available to each household and could range from \$60/month to \$130/month. Speeds will vary within that range as well, running from 1Mbps up to 50Mbps on the most expensive plans in the best served areas.

- b. What types of at-home broadband (e.g., fiber to the home, cable, DSL, WISP) are used by members of the Southern Ute Indian Tribe?

The primary source of broadband available to Southern Ute Tribal Members is DSL or WISP. There is little to no fiber to the home or cable available. This means that for many of those fortunate enough to have some form of broadband the speeds available fall well short of what the FCC would describe as broadband with access speeds of at least 25Mbps.

2. Have state or municipal laws or regulations prohibited or inhibited the establishment, operations, or expansion of any of the broadband networks owned or operated by the Southern Ute Indian Tribe or partnerships between the Tribe and companies?

RESPONSE: We are not aware of specific state or municipal laws or regulations that have inhibited establishment or expansion of broadband networks. To the credit of Governor Polis, he visited with both Colorado Tribes and was made aware of the need for expansion of broadband. As a result, there have been some efforts by the state to

include Tribes in broadband funding for rural areas. But funds are limited. As a practical matter, the greatest constraint on expansion of services is economic. Population density is low, so the opportunity to recover costs at a reasonable price for the consumer is inhibited. That leaves the burden of capital recovery on the Tribe. As is true for many states, efforts by the state government are usually focused on the greatest impact, which means rural communities are forgotten. In many cases, the tribes in Colorado are quite literally forgotten for many state initiatives. If we aren't aware of an issue and don't raise a question, the Tribe's perspectives are unknown by state policy makers. Further to that point, companies doing business on the Reservation can be taxed at the local, state, and federal level, but the Tribe sees little benefit from those taxes.

- a. If so, would the protections in my legislation, H.R. 2785, the *Community Broadband Act*, which protects municipal and Tribal broadband networks from restrictive state laws, provide relief from these restrictive state laws?

RESPONSE: Thank you Rep. Eshoo for your interest in expanding broadband through H.R. 2785. As I understand it, your bill would prohibit state and local entities from blocking the provision of broadband, including prohibiting the discrimination against competing private providers. To the best of my knowledge, this is not an issue in Colorado. However, any legislation limiting restrictions on broadband access would be helpful. In addition, any effort to eliminate double taxation or improve the flow of tax dollars back to Tribes would be welcome.

The Honorable Michael C. Burgess (R-TX):

1. Chairwoman Sage, for years, this committee has investigated and discussed the best ways to increase America's access to reliable energy. Native American tribes have often been neglected in these conversations yet have far lower access to reliable energy than the rest of the nation. The Southern Ute Indian Tribe has found success in developing its access to reliable energy.

- a. Can you explain the strategy used by your tribe to achieve this success? Can it be used as a template for other tribes?

RESPONSE: Through the hard work and vision of our Tribal leaders, the Tribe was able to retain its mineral rights within the current Reservation boundaries and to develop those rights in an economically and environmentally sound manner. The essence of our success has been the treatment of energy exploration and production as a business separate and apart from the bureaucracy of the Tribal government. When we are able to function at the speed of business, we can be somewhat competitive. However, the constraints of the numerous federal policies and approval processes have limited our ability to truly compete with outside companies, because they dramatically slow us down. For example, if you take one parcel of land divided equally between trust and fee, a developer can

begin the process of oil and gas exploration and production on the fee land in a fraction of the time it takes on the trust land.

We see the same limitations with respect to the BIA in carrying out its trust responsibilities. We value our relationship with our Superintendent. She is an incredible resource for the Tribe. However, funding is limited. Land records at the national level through TAAMS remain disorganized. We find we have to supplement the resources of the BIA to ensure that projects can be completed in a timely manner.

With these barriers, our success is a testament to our tenacity. As we begin to try to diversify our resources through power generation, we find a lack of electricity transmission infrastructure (power grid) limits our access to greater opportunity throughout the Southwest.

- b. What hurdles confront the Indian nations as they pursue greater access to reliable energy?

RESPONSE: I have identified some of the regulatory barriers above. For renewable energy, much of its economics are driven by income tax credits. Tribal Nations are considered non-taxable entities, and cannot take advantage of those credits, so we have to find tax equity partners. That can be challenging. If we could monetize those credits in another way, we would be on equal footing with the non-Tribal developers.

2. Chairwoman Sage, tribal communities lack adequate broadband service more than any others in the nation. This is partly due to the often remote and rugged geographic location of tribes as well as limited infrastructure. As a result, many service providers have not deployed the needed infrastructure to tribal areas. The Congressional Research Service identified that Native Americans have a lower rate of internet usage than other races and ethnicities, most likely due to the lack of service options.

- a. Do you foresee a discrepancy in supply and demand should broadband infrastructure and service be deployed in full on tribal lands?

RESPONSE: Tribal members want and need broadband service. It is necessary in the modern era and the current situation leaves many with limited options. Capital constraints will likely stop companies from “over supplying” broadband infrastructure. Distance to servers could impair speeds, so even if the infrastructure is there, the full benefit will not be there. Essentially, if the service is there, tribal members will use it.

The disadvantages that tribal members face due to the lack of access to or reliability of affordable broadband services are plenty. Disadvantages run across the board from tribal businesses that are unable to sell products or compete economically without reliable broadband to tribal elders and families who

require healthcare services and cannot access telemedicine. And students, who our country guarantees an education, have an increased likelihood of facing inequities in their academic careers because they do not have access to participate in classes, conduct research, or turn in assignments virtually.