

Telecommunications, Washington, D.C., Policy, Federal Government Relations, FCC, American Indian Law
FCC Report Concludes Broadband Deployment Still Lagging in Indian Country
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Client Alert

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As directed by Congress in last year's RAY BAUM's Act, the Federal Communications Commission (FCC) delivered to the House and Senate Commerce committees its evaluation of broadband coverage in Indian country. The FCC's bottom line: while there has been progress, more needs to be done.

Consistent with previous findings, the FCC found that broadband deployment on tribal lands in rural areas lags significantly behind both urban and non-tribal rural areas. Just 46.5% of rural tribal areas had access to fixed broadband services, a 27-point gap to non-tribal rural areas and 50% below non-tribal urban areas. (For these purposes, the FCC defines fixed broadband service as providing 25 Mbps downstream and 3 Mbps upstream.)

Here are the report's major findings regarding broadband coverage on tribal lands:

- 36% of housing units on tribal land lacked any access to wireline broadband, compared to only 8% of non-tribal housing units. Including fixed wireless improved matters, but not by much. 31% of tribal housing units lacked access, compared to only 7% of non-tribal housing units.
- The disparity between rural non-tribal and rural tribal fixed broadband coverage applies across all broadband speeds. The following table compares the percentage of housing units covered by at least one terrestrial (excludes satellite) fixed broadband provider in rural tribal and non-tribal areas.

10/1 Mbps		25/3 Mbps		100/10 Mbps	
Tribal	Non-Tribal	Tribal	Non-Tribal	Tribal	Non-Tribal
71.3%	87.8%	46.6%	73.3%	28.9%	58.4%

- Access to 4G LTE wireless broadband is more equalized, according to the report. Only 4% of the population on tribal lands have no access to 4G LTE mobile service (compared to 0.2% for non-tribal lands), and 73% have access to four or more providers compared to 89% for non-tribal lands.

The FCC's findings are based on broadband coverage information submitted to the agency from its 477 data collection, which requires biannual self-reporting by providers of broadband services on a census block basis. This same methodology has come under criticism by the General Accounting Office and others for overstating coverage on tribal lands, and the report acknowledges its "shortcomings." The FCC notes that it has an ongoing proceeding to consider ways to improve its broadband data collection, including obtaining information on a more granular basis.

What's Next

Congress directed the FCC to use the information developed by this report to conduct a rulemaking to address unserved tribal areas. The FCC must finish this rulemaking process next year, which means it is likely that the agency will issue a rulemaking notice sometime before the end of this year. The rulemaking process should

provide stakeholders a further opportunity to present proposals to enhance current programs. In the meantime, the FCC's report identifies existing and future actions to provide support for deploying broadband in tribal areas. The FCC's recently concluded auction to award Connect America Fund (CAF) financial support for unserved rural areas allocated \$1.488 billion over the next 10 years to expand broadband to 700,000 rural homes and businesses, including 17,895 tribal census blocks. Areas that did not receive funding in that auction will be included in the FCC's Remote Areas Fund and the agency has committed to consider preferences for tribal entities or providers serving tribal lands.

The FCC report also noted that it revised its rules for supporting broadband services offered by smaller, mostly rural carriers (called rate-of-return carriers) using an FCC-devised cost model. To reflect the unique challenges of deployment in many rural tribal areas, the model incorporates a "Tribal Broadband Factor" designed to identify more tribal areas as eligible for support. The report also notes that the FCC will conduct an additional "reverse auction" to award \$4.53 billion over 10 years for mobile broadband that will include a separate Tribal Mobility Fund auction "with at least \$340 million expected to be set aside for Tribal lands." The FCC, through the Rural Auctions Broadband Task Force, is conducting outreach to tribal governments to encourage participation. The report concludes that of the 1.75 million housing units located in tribal census blocks, almost 540,000 are completely unserved, and of that number, approximately 330,000 are eligible for the FCC's various funding programs.

The report's finding that broadband coverage in tribal areas continues to lag well behind other rural areas should provide additional incentive to address this aspect of the digital divide, and upcoming proceedings at the FCC afford an opportunity to tribal governments and associations to present their proposal to the agency.

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