

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Improving Communications Services for) CG Docket No. 11-41
Native Nations)
)
To: The Commission)

**COMMENTS OF NATIVE PUBLIC MEDIA AND
THE NATIONAL CONGRESS OF AMERICAN INDIANS**

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June 20, 2011

Summary

Native Public Media (“NPM”) and the National Congress of American Indians (“NCAI”) jointly submit Comments in response to the Commission’s Notice of Inquiry concerning Improving Communications Services for Native Nations.

The NOI is premised on the fact that Tribes frequently lack access to highspeed broadband and even basic telephone service. Although often referred to as the “Digital Divide,” the inequity in communications services is historic in nature. “Meaningful consultation” holds the best promise for rectifying longstanding inequities and transforming the relationship between Tribes and the FCC.

These Comments contain an analysis of the concept of consultation and proposals for its application to specific issues posed in the NOI.

Specifically, the Comments recommend:

- The creation of a Tribal Priority for the allocation and licensing of all spectrum.
- The creation of a Native Nations Broadband Fund.
- The adoption of a “tribal-centric” approach to economic developments.
- Use of the consultation process in creating programs for the adoption of broadband.
- A broad definition of “Tribal lands.”
- Modification of the procedures for designating an Eligible Telecommunications Carrier (“ETC”).
- Encourage satellite-delivered broadband to live up to its potential.
- Funding of the Office of Native Affairs and Policy at levels that will enable it to engage in “meaningful consultation” with Tribes.

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Native Public Media (“NPM”) and the National Congress of American Indians (“NCAI”) respectfully submit these Comments in response to the Notice of Inquiry in CG Docket No. 11-41 (“NOI”).

I. INTRODUCTION

NPM represents the interests of over 40 noncommercial stations that serve Native Nations and non-Native listeners throughout the United States.¹ Since its launch in 2004, NPM has focused on supporting existing Native American noncommercial radio stations and promoting ownership of more Native communities by serving as an advocate, national coordinator, and resource center.

On behalf of member Tribes, NCAI is a forum for federal-tribal policy on major issues confronting Native peoples, including the challenges of communications access and deployment. NCAI coordinates with the Federal Communications Commission (“FCC” or “Commission”) on a number of Tribal outreach and education efforts. NPM and NCAI have co-hosted several FCC

¹ NPM, formerly known as the “Center for Native American Public Radio,” is an independent 501c3 organization incorporated in the State of Arizona. A list of the NPM member stations can be found at <http://www.nativepublicmedia.org/Partners/native-stations-directory.php>.

Indian Telecommunications Initiatives (“ITI”) regional workshops and roundtables. NCAI co-hosts with the Commission the annual “FCC-NCAI Dialogue on Increasing Tribal Telecommunication” between Commission officials and members of the NCAI Telecommunications Subcommittee and tribal telecommunications industry leaders.

Since the creation of NCAI’s Telecommunications Subcommittee in 2001, NCAI has adopted many resolutions that articulate national policy positions on the deployment of telecommunications, broadcast and broadband services throughout Indian Country. Attached hereto as Attachment 1 are four Resolutions (MKE-11-004, MKE-11-005, MKE-11-006, and MKE-11-007) adopted during the 2011 mid-year session of the National Congress of American Indians, held June 13 – June 16 in Milwaukee, Wisconsin. These Resolutions are referenced throughout these Comments in support of various proposals.

NPM is an active participant in NCAI’s Telecommunications Subcommittee. NPM and NCAI provided substantial input to the National Broadband Plan (NBP), as reflected in the *Tribal Spectrum NPRM*.²

NPM and NCAI appreciate the Commission’s ongoing efforts to assist Tribes in developing communications policies and are pleased to submit these comments on the important issues raised by the NOI.

II. THE PREMISE OF THE NOI

The NOI correctly recognizes a number of essential facts. Many Americans living on Tribal lands lack access to broadband and even basic telephone service; the lack of access to communications services is longstanding in nature; and the FCC has a statutory duty to remedy

² See, e.g., *Tribal Spectrum NPRM*, footnotes 4, 33, 34, 37, 70, 87, 96.

the lack of access by making telecommunications and information services available to all citizens at comparable rates.³

The NOI also recognizes that, as an agency of the federal government, the FCC has a duty to Tribes that is distinguishable from its duty to other citizens. That duty is a duty of trust that requires the federal government to adhere to fiduciary standards in its dealings with Tribes.⁴

The question that looms over the many subsidiary issues raised by the NOI is how the FCC's fiduciary responsibility should be applied to the unique circumstances that affect Native Americans.

III. THE ROLE OF CONSULTATION

The last issue raised by the NOI, the duty to consult with Native Nations, is the most important, and will be addressed first. The NOI generally reaffirms the importance of “government-to-government consultation” established in the FCC's 2000 *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes (Tribal Policy Statement)*,⁵ and seeks guidance on the meaning and application of this duty.

A recent judicial decision provides a key. When a solar energy company proposed to build a solar energy network over 6,500 acres of federally owned land in California and Arizona, the Quechan Tribe objected to the project, not on grounds that sources of alternative energy were objectionable, but on grounds that the Tribe had not been consulted on the prospect the project would have on hundreds of sites of historical, religious, and archaeological sites of significance to the Tribe and whose ancestral interests were protected by the National Historic Preservation

³ Communications Act of 1934 as amended, 47 U.S.C. § 254(b)(3).

⁴ See NOI, p. 5, citing *United States v. Mitchell*, 463 U.S. 206 (1983).

⁵ 16 FCC Rcd 4078 (2000).

Act (“NHPA”).⁶ The Quechan Tribe maintained that the Bureau of Land Management (“BLM”) had executed a programmatic agreement for management of the project without adequately consulting with the Tribe. The court agreed. It found that the project was a federal undertaking that required “meaningful” government-to-government consultation with the Tribe. For purposes of these comments, the significance of the case is its interpretation of “meaningful” or “adequate” consultation. As the case makes clear, that duty to consult is not an empty formality that can be passively satisfied with mere notice and opportunity to object.

Emphasizing many of the same principles recognized in the NOI, the court found that the federal government had a duty to Tribes that went beyond its ordinary administrative duty not to act in an arbitrary and capricious fashion. That duty was fiduciary in nature and required that a federal undertaking be “conducted in a manner sensitive to the concerns of the Indian tribe.”⁷ The government’s duty was active, not passive, in nature: “consulting parties that are Indian tribes are entitled to *special consideration* in the course of an agency’s fulfillment of its consultation obligations.”⁸ Among those considerations is an obligation to consult with the Tribe *before* beginning a federal undertaking. “Consultation should commence early in the planning process.”⁹ A right merely to challenge the outcome is insufficient to satisfy the duty of consultation. The duty of consultation goes beyond procedural rights provided to all interested parties by the Administrative Procedure Act. It requires that the federal government consult “with representatives designated or identified by the tribal government” in a manner sensitive to the concerns and needs of the Indian tribe,” and with and special concern “about the

⁶ Quechan Tribe of the Fort Yuma Indian Reservation, 755 F. Supp2d 1104 (S.D.C.A. 2010) [hereinafter *Quechan Tribe*.]

⁷ *Quechan Tribe* at 1109, citing 36 C.F.R. § 800.2(c)(2)(ii)(C).

⁸ *Quechan Tribe* at 1109-10, emphasis in original.

⁹ *Id.*, citing 36 C.F.R. § 800.2(C).

confidentiality of information on historic properties.” “[P]rofessions of good intent and solicitations to consult with the Tribe” are no substitute for “true government-to-government consultation.”¹⁰ Opportunities to submit suggestions in writing are no substitute for face-to-face consultation. While the government need not acquiesce to every tribal request, and may coordinate and streamline a federal undertaking through documents such as a programmatic agreement, the government cannot circumvent a Tribe’s request to consult in-person in the interests of efficiency. Consultation is a qualitative not a quantitative right. “While public informational meetings, consultation with individual tribal members, meeting with government staff or contracted investigators, and written updates are obviously a helpful and necessary part of the process, they don’t commit to the type of ‘government-to-government’ consultation contemplated by the regulations.”¹¹

Measured by these standards, the FCC’s consultation with Tribes has been far less than “meaningful.” To take only the example most closely parallel to the *Quechan* case, the FCC, like the BLM, has entered into a Nationwide Programmatic Agreement (“NPA”)¹² that establishes procedures for reviewing the FCC’s licensing of communication facilities under Section 106 of the National Historic Preservation Act and other federal environmental statutes.¹³ The NPA and implementing regulations only faintly reflect the FCC’s fiduciary duty to consult with Tribes before licensing such facilities. Those regulations instead dilute that essential governmental responsibility by delegating it to others. Under the regulations, “applicants and

¹⁰ *Quechan Tribe* at 1118.

¹¹ *Quechan Tribe* at 1119.

¹² See, *Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, 20 FCC Rcd 1073 (2004).

¹³ The issuance of FCC licenses that require construction of communications towers is a “federal undertaking,” subject to the NHPA. *CTIA v. FCC*, 466 F.3d 105 (D.C. Cir. 2006).

licensees” have a duty to complete a “review process” prior to constructing FCC-authorized facilities.¹⁴ While the review process contains safeguards for protecting information about sensitive cultural sites, the government’s role is largely passive. The FCC establishes a mechanism whereby applicants are required to give notice of proposed construction, and Tribes are given a limited opportunity to object. As the NOI bluntly concedes, the FCC’s process is “intended to streamline the process and *eliminate* the need for government-to-government consultation, where possible.”¹⁵ “Streamlining” a process for the convenience of non-Tribal applicants and eliminating true “government-to-government consultation, where possible” are the very flaws condemned by the court in *Quechan*. Such procedures may be adequate to assure due process procedures established by the Administrative Procedure Act, but they fall far short of the more exacting fiduciary obligations that require the federal government to take sensitive Tribal concerns into account before commencing a federal undertaking.

IV. COMMENTS ON SPECIFIC ISSUES

The purpose of the preceding section is not simply to criticize the FCC’s implementation of the NHPA, but to show how existing rules can perpetuate rather than eliminate historic inequities. In implementing the NPA, in part specifically to recognize Tribal interests in ancestral lands, the Commission’s foremost consideration was not to establish a procedure for government-to-government consultation with Tribes, but to “streamline” the application process and eliminate the need for consultation with Tribes. Such an approach is hardly a prescription for closing the Digital Divide. If the promise of the NOI is to be realized, changes are needed not simply to existing regulations, but to the FCC’s understanding of its special responsibilities to Tribes in implementing all regulations that affect Tribes. All future federal undertakings,

¹⁴ NOI, pp 21-22, citing 47 C.F.R. §§ 1.1301-1319.

¹⁵ NOI, P. 22.

including the allocation and licensing issues considered in this proceeding, must be examined with that duty and the opportunity for “meaningful consultation” in mind.¹⁶

1. Native Nations Priority

As the NOI recognizes, the creation of a Tribal Priority for allocating and licensing radio channels was an important first step for rectifying the historic lack of broadcast service to Indian communities.¹⁷ But it was a small first step, belatedly taken. Although Section 307(b) has been part of the Communications Act since 1934, it took more than three-quarters of a century to devise a policy that recognized the FCC’s obligation to assure that Tribes had “fair and equitable” access to spectrum. The Tribal Priority was adopted not at the beginning of the great “federal undertaking” of providing broadcast service to the country, but near the end of that process, when broadcast spectrum is almost exhausted. The Tribal Priority is currently limited to AM and FM radio, and even in those contexts is severely limited by existing allocation and licensing procedures. While it is now possible, given sufficient engineering resources, to seek an allotment of a commercial radio channel to serve Tribal lands, no Tribe has yet availed itself of the opportunity. Applicants who wish to use the Tribal Priority to obtain a permit to construct a full-service noncommercial (“NCE”) FM station will have to wait for the next filing window to open. That window is nowhere in sight.

The Tribal Priority applies only to the allocation and licensing of spectrum. It is of no use to Tribes and Tribal organizations that filed applications in the 2007 NCE window and were (without the benefit of Tribal Priority) granted construction permits , and who now face the prospect of having the permit expire because of cutbacks in state and federal funding for public

¹⁶ See Resolution MKE-11-005.

¹⁷ See NOI, p. 6 and *Promoting Rural Radio Service and Streamlining Procedures*, FCC 11-28 (March 3, 2011).

media. The once jubilant prospect for doubling the number of Tribal stations is rapidly waning. The NOI offers no solution for this problem, and does not invite comment on it. NPM and NCAI advocate limited extensions of these construction permits.¹⁸

As early supporters of the Tribal Priority for allocating future broadcast allocations and licenses,¹⁹ NPM and NCAI have urged its extension to other telecommunications services.²⁰ The same policy grounds, and constitutional support, apply to services beyond broadcast radio.²¹ The Tribal Priority, along with other possible rule changes (including the “build-or-divest” policy), are vital for bringing critically needed services to Indian Country.

NPM and NCAI also support the Commission’s proposal to open a Tribal Priority window prior to opening up new spectrum to all bidders.²² Doing so would provide Tribes with the opportunity to apply for spectrum that would specifically serve Tribal lands before other carriers have the opportunity to buy large swaths of spectrum which may or may not ever deliver

¹⁸ See NCAI Resolution MKE-11-04, which laments the potential loss of many of the 38 construction permits licensed to Tribes or Tribal entities, and asks the FCC to provide limited extensions of the construction period.

¹⁹ See, *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, First Report and Order and Further Notice of Proposed Rule Making*, 25 FCC Rcd 1583, 1588 ¶ 9 (2010) (“*Rural Radio Report and Order*”).

²⁰ See, e.g., *Tribal Spectrum NPRM*, ¶35, n. 70 (citing NPM/NCAI November 2009 Joint Comments at 19 and December 2009 Ex Parte Joint Comments at 19 in National Broadband Plan proceeding); Joint Reply Comments of NPM and NCAI in WT Docket 10-90 (“Connect America Fund”), filed August 11, 2010, p. 7; Joint Reply Comments of NPM and NCAI in WT Docket No. 10-208 (“Mobility Fund”), filed December 16, 2010, p. 11.

²¹ See *Rural Radio Report and Order*, ¶ 12.

“As the D.C. Circuit explained in 2003, the Supreme Court’s decisions leave no doubt that federal government action directed at Indian tribes, ‘although relating to Indians as such, is not based on impermissible racial classifications.’ As set forth above, the Tribal Priority established herein will further our Section 307(b) mandate and other Commission policies by enabling Indian tribal governments to provide radio service tailored to the needs and interests of their local communities. Furthermore, as discussed above, we find that Indian tribal governments are uniquely situated to provide such service to tribal lands. Accordingly, we believe that the Tribal Priority is consistent with the Equal Protection Clause of the Fifth Amendment.” (Citations omitted).

²² See *Tribal Spectrum NPRM*, ¶ 39 and NCAI Resolution MKE-11-04.

service to Indian Country. To be successful, however, Tribes must be given sufficient time to design systems and prepare applications. In many instances, Tribes are not as technically experienced as established telecommunications carriers, and need more time to make their proposals “shovel ready.”²³ In most instances, Tribes and Tribally-controlled entities will be able to meet all the legal, technical and financial requirements needed to qualify for a license in any specific Wireless Radio Services,²⁴ but the Commission should be prepared to accept and process applications that request waivers of one or more of these qualifications based on unique circumstances facing Tribes that might make full compliance impossible or extremely difficult.²⁵

2. Native Nations Broadband Fund

NPM and NCAI strongly support the creation of a Native Nations Broadband Fund, as proposed by the National Broadband Plan.²⁶ A Native Nations Broadband Fund specifically reserved for Tribes and Tribally-controlled entities is essential not only to stimulate the interests of Tribes in serving their own lands, but in creating a process sensitive to the unique circumstances Tribes face. Tribal experience with the Recovery Act²⁷ is instructive. Although the Recovery Act offered grants for broadband deployment, the application forms created by the Broadband Initiatives Program (BIP) and Broadband Technology Opportunities Program (BTOP) often required hundreds of hours of time to complete. The complexity of the forms was

²³ The outreach efforts described in paragraph 39 are vital – Tribes must be aware of these opportunities, and have sufficient time to prepare viable applications.

²⁴ See *Tribal Spectrum NPRM*, ¶ 40.

²⁵ NPM and NCAI would submit that waivers of technical qualifications would be judged more strictly than requests for waivers of financial qualifications. Given the very different funding profiles of Tribes and Tribal entities, compliance with commercial financial qualifications may not be appropriate for some Tribes and Tribal entities.

²⁶ See NCAI Resolution MKE-11-04.

²⁷ American Recovery and Reinvestment Act of 2009, Pub L. No. 111-5, § 6001(k)(2)(D), 123 Stat. 115, 516 (2009).

itself a deterrent to many Tribal applicants. The BIP and BTOP scoring criteria did not take unique characteristics of Tribes into account nor the inability of Tribes to use Tribal lands, often held in trust, as security for loans. Despite pleas from NPM and NCAI, the programs did not establish a plan for consulting with Tribes comparable to plans for consulting with states. Finally, because adequate mapping of broadband availability was unavailable until after the BIP and BTOP programs closed, the areas most in need of service could not always demonstrate that need.

3. Native Nations Business Models

NPM and NCAI have consistently advocated a “tribal-centric” approach to economic development. That approach is detailed in a survey, case studies and recommendations for fostering broadband deployment previously submitted by NPM and New America Foundation and referenced in the NOI.²⁸

The “tribal-centric” approach is intimately related to the unique relationship between the FCC and Tribes. As illustrated by the statistics cited at the beginning of these Comments and in the NOI, the FCC has not always appreciated the fact that it has a trust relationship with Tribes that requires it to do more than give public notices and extend ordinary procedural opportunities to Tribes. It has an active duty to solicit Tribal input before commencing a federal undertaking and to work with Tribes to achieve Tribal goals.

4. Native Nations Adoption and Utilization

As shown in the NPM/NAF New Media Study, Native Nations are eager to adopt broadband services when those services are available.²⁹ That testament to the resilience of

²⁸ NOI, pp 3, 9-10 and New Media, Technology and Indian Use in Indian Country (November 19, 2009) (NPM/NAF New Media Study).

²⁹ See NOI, p. 11 and NPM/NAF New Media Study.

Native people does not diminish the existence of barriers to broadband adoption, such as cost, digital literacy and accessibility.³⁰ As discussed above, a Native Nations Broadband Fund, tailored to the needs of Indian country, is direly needed. Although that Fund should be restricted to Tribes and Tribally-controlled entities, it should be available for a wide range of purposes, including planning or pilot grants; computer literacy programs; and the costs of interconnecting anchor institutions, as well as providing services to the general public.³¹

As noted in the *Quechan* case above, good intentions are an inadequate safeguard for true consultation. In adopting a definition of “library” for the E-rate program, the Commission imagined the sort of single-purpose repository of hard-bound books that are familiar in traditional schools and public libraries.³² It did not consider the possibility that, in less prosperous circumstances, a “library” might be part of a multi-purpose cultural institution such as a Navajo Chapter house. Similarly, in initially requiring that a “technology plan” for E-rate funding be approved by the relevant state, it gave no thought to the question of whether states should be authorized to second-guess a Tribe about the Tribe’s “statement of goals.”³³ One of the functions of “meaningful consultation” is to ensure such biases do not become the very hurdles they are intended to surmount.³⁴

³⁰ See National Broadband Plan at 152.

³¹ See NCAI Resolution MKE-11-004.

³² See 47 C.F.R. 54.500(d), which includes elementary and secondary school libraries, as well as academic and research libraries.

³³ 47 C.F.R. § 54.508.

³⁴ See NCAI Resolution MKE-11-005.

5. **Tribal Lands**

NPM and NCAI favor adoption of the broad definition of Tribal lands adopted for radio licensing purposes and the Tribal Lands Bidding Credit,³⁵ but with provisions that would allow Tribes without significant land holdings to demonstrate qualifications.³⁶ The Commission has taken a similar approach in the *Rural Radio Order*.³⁷ That approach permits a “landless” Tribe to claim a Tribal Priority based upon a showing of functional equivalency. For example, in the *Rural Radio Order*, the Commission adopted the NPM/NCAI proposal that the Commission entertain waiver requests that demonstrate that the principal purposes of a Tribal Priority would be served by a waiver. These purposes are that grant of the Tribal Priority would “enable Tribes to serve their citizens, to perpetuate Tribal culture, and to promote self-government.”³⁸ That approach is reasonable for all matters involving Tribal applicants. The exclusion of landless Tribes from benefits conferred on Tribes with land is untenable, given that only 312 of the 565 federally recognized Tribes have reservations. As noted in the *Rural Radio Order*, waivers may also be appropriate for Tribes with very small land holdings, such as Rancherias. In such circumstances, a service may include the entirety of Tribal lands, but the lands may constitute less than 50% of the service area.

6. **Eligible Telecommunications Carrier Designations**

Historically, the FCC has deferred to state commissions in designating an eligible telecommunications carrier (ETC) qualified to receive support from the Universal Service Fund. As a consequence, Tribal governments have played virtually no role in deciding who shall serve

³⁵ See NOI, p. 12.

³⁶ See NCAI Resolution MKE-11-004.

³⁷ MB Docket No. 09-52, Second Report and Order, FCC 11-28 (March 3, 2011).

³⁸ *Rural Radio Order*, pp. 6-7.

Tribal lands or what services should be offered. The traditional approach is contrary to the principles of Tribal sovereignty and government-to-government relationships discussed above. NPM and NCAI therefore support the recommendation of the National Broadband Plan that “Tribal governments should play an integral role in the process for designating carriers who receive support to serve Tribal lands.”³⁹

The Commission should not entertain a request for ETC designation to serve Tribal lands without the consent of the relevant Tribes. Nor is consent alone sufficient. Upon request by the Tribe, the Commission should initiate a consultation process that permits the Tribe to negotiate the terms and conditions on which service will be provided by the carrier. As part of that process an ETC carrier proposing to serve Tribal lands should specifically identify the Tribal lands to be included in the designation and should, as a condition of ETC designation, be required to work directly with the Tribe to be served. No ETC designation should be conferred until the consultation process is successfully concluded.

7. Satellite-Delivered Broadband

The *NOI* seeks comments on whether satellite technology can deliver high speed broadband services to Indian Country.⁴⁰ Although satellite-delivered broadband has promised to provide connectivity in even the most remote areas of the nation, satellite services have often failed to live up to their promise. As the recent study from the Rural Mobile and Broadband Alliance (RuMBA) concludes: “When measured against the prevailing definition of broadband, satellite technology falls far short of conventional wired and wireless alternatives, mainly due to latency, bandwidth, price, performance and service shortcomings.”⁴¹

³⁹ *NOI*, pp 13-14, citing National Broadband Plan, p. 146. See also NCAI Resolution MKE-11-007.

⁴⁰ *NOI*, ¶¶ 56-66.

⁴¹ This study is available for download at: www.rumbausa.net/downloads/rumba-satellite-wp-web.pdf.

The experience of some Tribes confirms these problems. Press accounts show, for example, that service to Navajo Chapter Houses deteriorated as more people began to use the service. As the satellite broadband capacity was whittled away by more users, the system ultimately collapsed.⁴² Satellite/terrestrial options also hold promise,⁴³ but they too have come under fire. Reusing satellite spectrum for terrestrial purposes can cause interference to other users.⁴⁴ As NPM has demonstrated, Native Americans are avid users of broadband, ***when it is available***. Building a system on the assumption that few will use it flies in the face of this evidence.

If satellite-delivered services are to provide an answer to the Digital Divide in Indian country, they must deliver on their promise. Delivery of last-generation speeds and quality of service to Indian country while commercial carriers roll out faster services to the rest of the nation would simply be a new version of current inequities. Indian country should not be a testbed for satellite solutions that may or may not work, lest a failure in implementation drive Tribes further behind the rest of the country.

8. The Office of Native Affairs and Policy

In August, 2010, the FCC established the Office of Native Affairs and Policy (“ONAP”) to help ensure “government-to-government consultation with Federally-recognized Tribal governments and other Native organizations and to implement the recommendation of the

⁴² See http://www.daily-times.com/ci_18038624 (satellite carrier failed to deliver the service it was paid to provide); http://findarticles.com/p/articles/mi_qn4188/is_20070517/ai_n19169890/ (wireless service is always down or too slow).

⁴³ See *NOI*, ¶ 59.

⁴⁴ See http://www.spacenews.com/satellite_telecom/110617-lightsquared-setbacks-two-fronts.html (National Public Safety Telecommunications Council objects to LightSquared’s plan to use L-Band frequencies both for space-to-Earth communications and terrestrial point-to-point communications, concluding that such use will cause interference to public safety operations).

National Broadband Plan.⁴⁵ ONAP was organized as part of the Consumer and Governmental Affairs Bureau, and was designed to have no “adverse impact” on the Office of Intergovernmental Affairs which had previously been responsible for “outreach and information exchange on telecom issues with tribal governments.”⁴⁶

NPM and NCAI applaud the creation of ONAP and the initiatives, including this NOI, that ONAP has already undertaken. There is much to be done, however. As Commission Copps noted in his Statement on the establishment of ONAP, “The hard work – and I mean *really* hard work – is still ahead of us.” Like the Tribal Priority, the creation of ONAP is a small first step toward the Communications Act’s promise of making telecommunications and information services available to all citizens at comparable rates.⁴⁷

ONAP and its “relatively small staff”⁴⁸ are the first true recognition of the FCC’s duty to engage in “meaningful consultation” with Tribes over issues that affect their sovereign interests, including those protected by NHPA. As NCAI and NPM made clear in testimony before the Senate Commerce Committee, it is important that ONAP’s efforts not be fleeting or symbolic.

Without a budget sufficient for its mission, the Office of Native Affairs and Policy cannot carry out its mission of consultation with Tribes on a government-to-government basis. There are currently no line items in the FCC’s budget for the Office of Native Affairs and Policy. We ask that you take this Office and its functions as seriously as we do by assuring that it is adequately funded.⁴⁹

⁴⁵ Establishment of the Office of Native Affairs and Policy in the Consumer and Governmental Affairs Bureau, FCC 10-141 (released August 12, 2010).

⁴⁶ Id. p. 2.

⁴⁷ 47 U.S.C. § 254 (b)(3).

⁴⁸ Establishment of the Office of Native Affairs and Policy, p. 2.

⁴⁹ The testimony of NCAI and NPM before the Senate Committee on Commerce, Science and Transportation is attached hereto as Attachment 2.

Adequate funding is the key to “adequate” consultation and to the possibility that this “inquiry” will result in real change: not only in the narrowing of the existing Digital Divide, but in the creation of a new relationship between Tribes and the Federal Communications Commission that will prevent such inequities in the future.

Respectfully submitted,

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June 20, 2011

Attachment 1



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution # MKE-11-004

TITLE: In Support of Improving Communications Services for Tribal Communities

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, a deep media and digital divide persists in Indian Country negatively impacting the lives of tribal communities, whereas most Americans enjoy these services and have a choice in information media; and

WHEREAS, robust communications services would strengthen tribal efforts to preserve their cultures and advance self-governance, economic opportunity, health, education, public safety, and welfare; and

WHEREAS, Native owned and operated radio stations are the largest, most consistent sole service providers of local news and relevant programming in tribal communities; and

WHEREAS, as part of the FCC's Noncommercial Educational FM window filing, opened by the FCC in 2007, 38 construction permits were awarded to tribal licensees to provision local community originated radio services to tribal communities and many of these construction permits are now approaching their three year expiration, if not constructed; and

WHEREAS, in light of many factors including access to capital through PTFP and other funding sources, many tribal licensees have experienced difficulty in meeting the three year construction deadlines of their permits; and

WHEREAS, in the *Rural Radio Order*, (76 Fed. Reg. 14362), the Federal Communications Commission (FCC) established a Tribal Priority in allocating and assigning broadcast radio channels under Section 307(b) of the Communications Act, governing the allocation of radio licenses to "provide a fair, efficient, and equitable distribution of radio service" to states and communities; and

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Amestown S'Kallam Tribe

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Central Council Tlingit & Haida

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WHEREAS, the FCC found that a Tribal Priority advanced its commitment “to work with Indian Tribes on a government-to-government basis ... to ensure, through its regulations and policy initiatives, and consistent with Section 1 of the Communications Act of 1934, that Indian tribes have adequate access to communications services”, and broadband access would greatly benefit collaborative efforts between tribes, nonprofits, and commercial sectors; and

WHEREAS, digital technology is allowing tribes to report on issues affecting their people and lands, and digital inclusion of tribal peoples is essential in public service media, and provides access to public affairs networks, wikis, local news websites, news reporting, and production of local and relevant content across multiple platforms; and

WHEREAS, the creation of and subsequent grants from a new ‘Native Nations Broadband Fund’ must support media serving Indian Country, high-capacity connectivity, digital literacy, and use of broadband technologies to engage tribal membership more robustly in the information age.

NOW THEREFORE BE IT RESOLVED, that the NCAI supports universal broadband and an open Internet as essential prerequisites for ensuring that tribal residents have access to and benefit from new media sources and that the FCC work with tribes to expand rules or establish waiver standards that make it easier for tribal communities to provide radio services to tribal reservations, homelands or their functional equivalent; and

BE IT FURTHER RESOLVED, that NCAI strongly urges the adoption of and funding for a ‘Native Nations Broadband Fund’ to meet the needs of Native and tribal communities to: 1) help tribal governments plan for deployment of and financing for broadband network capabilities in their communities; 2) to support the operational costs of broadband service in Native communities; 3) to support the startup of Native regulatory broadband services; 4) to support full broadband service by tribes currently providing regulatory telecommunications services; 5) to provide funding for Native Broadband Lifeline and Linkup support; 6) to provide funding for Native public safety infrastructure and deployment reform, including E-911 mapping; 7) to fund broadband mapping for and by Native governments, with focus on deployment barriers and needs; 8) to connect key Native anchor institutions in communities with broadband service; 9) to fund public mass media infrastructure in every Native community; and, 10) to fund Native Mobility networks to meet safety-net needs of Native communities; and

BE IT FURTHER RESOLVED, that the NCAI supports the establishment of a Tribal Priority in Wireless Radio Services, thereby expanding the current Tribal Priority to advanced wireless communications licenses and the creation of opportunities for access to unused or unallocated spectrum in order to increase access to communications services; and

BE IT FURTHER RESOLVED, that the NCAI supports standardizing the definition of tribal lands to mirror radio licensing definitions, and defined to include “American Indian Reservations and Trust Lands, Tribal Jurisdiction Statistical Areas, Tribal Designated Statistical Areas, Hawaiian [Home Lands], and Alaska Native Village Statistical Areas, as well as the communities situated on such lands” and that the FCC work with tribes to determine how the Tribal Priority can be extended to non-landed (landless) tribes; and

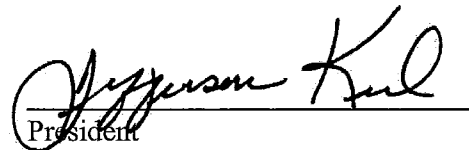
BE IT FURTHER RESOLVED, that the NCAI respectfully requests the FCC's Media Bureau to consider awarding limited construction permit extensions to affected tribal licensees who have not been able to meet the three year construction period deadline; and

BE IT FURTHER RESOLVED, that the NCAI strongly urges the President, and Congress to consider the needs of disadvantaged tribal communities when crafting national communications policy, and that Congress begin providing dedicated annual appropriations to local media outlets currently serving tribal communities; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

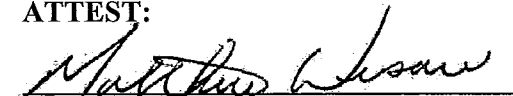
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2011 Mid-Year Session of the National Congress of American Indians, held at the Frontier Airlines Center in Milwaukee, WI on June 13-16, 2011, with a quorum present.

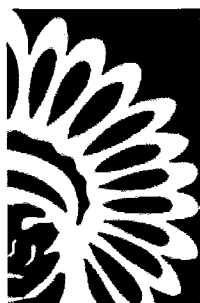


President

ATTEST:



Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution # MKE-11-005

TITLE: In support of Tribal Positions on Universal Service Reform

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, a 2006 Government Accountability Office report found that only about 69% of households on tribal lands had telephone service in 2000 compared to the national rate of 98%. The report identifies four specific barriers to deployment: 1) the rural, rugged terrain of tribal lands; 2) limited tribal resources; 3) lack of technically trained tribal people; and, 4) rights of way issues; and

WHEREAS, the Universal Service Fund (USF) currently administers the Link-Up, Lifeline, and High Cost programs which provide much needed telephone discounts to qualified subscribers on tribal lands, and ensures that all consumers have access to affordable pay rates for telecommunications services; and

WHEREAS, in light of a limited regulatory definition of "library" as defined by the FCC, tribal libraries are often ineligible for 'E-rate' support as many do not qualify for state library funds, a fact that was specifically noted by the U.S. Government Accounting Report (GAO-06-189), in January 2006. Tribal libraries, serving as community anchor institutions, are frequently the only access point for Internet services in some tribal communities, and the lack of broadband services at these institutions impedes education, individual self-determination, social discourse and participation for tribal membership; and

WHEREAS, there needs to be a tribal seat on the USF Federal-State Joint Board to include an American Indian/Alaskan Native representative to make recommendations on implementing USF programs to provide critical investments and expand telecommunications services on tribal lands.

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NOW THEREFORE BE IT RESOLVED, that the federal government should support tribal sovereignty by removing all regulatory and market barriers, and by supporting all tribal nations' efforts to attain parity of telecommunications service and technology with non-Native communities; and

BE IT FURTHER RESOLVED, that NCAI urges the FCC, the President, and Congress to not take any action on any policy that would harm tribal efforts to serve its own communities, and that the aforementioned should do everything within federal capacity to fund tribal efforts to provide its own regulatory telecommunications solutions; and

BE IT FURTHER RESOLVED, that NCAI urges the FCC, the President, and Congress to support the requirement for direct consultation with tribal governments on federal policies directly impacting tribal lands and communities; and

BE IT FURTHER RESOLVED, that NCAI urges the FCC, the President, and Congress to support the requirement for regulated commercial telecommunications entities to directly consult with tribal governments and Native community organizations on providing full service to tribal communities; and

BE IT FURTHER RESOLVED, that NCAI recognizes the path and the model that tribes have embarked upon to become their own regulatory telecommunications providers to meet the needs of their communities and these efforts should continue to be fully supported by the Connect America Fund and by the revised Universal Service Fund; and

BE IT FURTHER RESOLVED, that the NCAI strongly urges the joint support of the President, the FCC, and Congress create a tribal seat on the USF Federal-State Joint Board to be filled by an American Indian or Alaska Native so that tribes will have representation and effective input regarding the overhaul and future management of the Universal Service Fund; and

BE IT FURTHER RESOLVED, by the NCAI that Indian Country can overcome the digital divide through meaningful collaboration and consultation on USF reform through strong, engaged, and consistent dialogue with the federal government including the FCC Office of Native Affairs and Policy, and the Wireless Telecommunications and Wireline Competition Bureaus; and

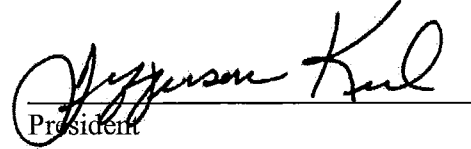
BE IT FURTHER RESOLVED, during the modification of the USF, and transition to the Connect America Fund, that the USF continue to provide the much needed support of legacy technology through the Lifeline, Link-Up, and High Cost programs, which provide telephone discounts to qualified subscribers on tribal lands, ensuring all consumers have access to affordable rates for telecommunications services; and

BE IT FURTHER RESOLVED, that the NCAI strongly urges Congress to direct the FCC to permit tribal governments to determine what constitutes a "library" in Indian Country so that the tribally designated location is eligible for 'E-rate' support; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

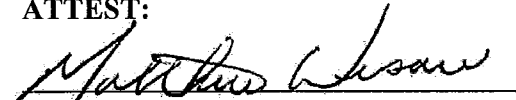
CERTIFICATION

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President

ATTEST:



Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution # MKE-11-006

TITLE: In Support of the Office of Native Affairs and Policy's (FCC ONAP) Tribal Initiatives and Budget

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Federal Communications Commission (FCC) created the Office of Native Affairs and Policy (FCC ONAP) and reaffirmed its commitment to tribal communities by advocating for greater deployment and adoption of telecommunications services on tribal lands, and for the office to serve as the point of contact for federal agencies, and telecommunications industries in regards to consultation efforts with tribal communities on communications issues; and

WHEREAS, the NCAI has previously recognized the importance of the FCC ONAP at the 2010 NCAI Mid-Year Conference in Rapid City, SD through the passage of Resolution #RAP-10-006; and

WHEREAS, the NCAI provided testimony at the Senate Committee on Commerce, Science, and Transportation hearing, "Closing the Digital Divide: Connecting Native Nations and Communities to the 21st Century", held on April 4, 2011 supporting the critical role of the FCC ONAP in Indian Country; and

WHEREAS, there is no line item currently in the FCC's budget for the FCC ONAP, and the FCC has never had a distinct, annually dedicated, budget allocated to FCC ONAP to cover staffing and service to Indian Country, and FCC ONAP will require an annually dedicated budget to ensure ongoing government-to-government consultation with tribal governments and organizations; and

WHEREAS, the FCC ONAP is responsible for developing and driving a tribal agenda and serves as the FCC's primary point of contact on Native issues in developing and implementing policies for assisting Native communities and ensuring that Native concerns and voices are considered in all relevant Commission proceedings and initiatives.


NOW THEREFORE BE IT RESOLVED, that the NCAI reaffirms Resolution #RAP-10-006 in support of the FCC ONAP, and urgently requests full funding and staffing of the FCC ONAP through the creation of a supplemental appropriation for the FY 2011 budget due to the extraordinary number of rulemakings pending before the FCC that directly impact and effect the interests of Indian Country; and

BE IT FURTHER RESOLVED, that the NCAI supports a permanent yearly budget in the amount of \$2 million for the FCC ONAP so that the office can cover operational costs, pursue its goals of communications deployment and adoption on tribal lands, and continue consultation with tribal governments; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

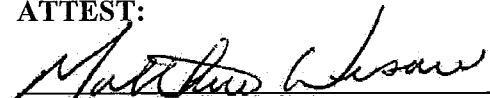
CERTIFICATION

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President

ATTEST:



Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution # MKE-11-007

TITLE: In Support of a Tribal Priority for the Utilization of Spectrum on Tribal Lands

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the 1996 Telecommunications Act provides for telecommunications infrastructure and information technology to be developed and utilized in a manner that meets the social, civic, economic, educational, and cultural needs of American Indians and Alaska Natives; and

WHEREAS, while competitive market forces have spurred robust wireless communications services in many areas, connectivity on tribal lands remains at significantly lower levels necessitating robust 'tribal centric' build out comparable to the national average; and

WHEREAS, NCAI supports the establishment of a tribal priority, similar to the current 307(b) tribal priority for broadcast licenses, for the licensing of fixed and mobile wireless telecommunications services, and ensuring its availability to qualifying tribal entities that provide service to unserved or underserved tribal lands, when such lands are within the geographic area covered by an unallocated Wireless Radio Services license; and

WHEREAS, NCAI supports increased 'tribal-centric' build out requirements for carriers, including tribally operated providers of first resort or tribal joint ventures based on consultation with tribes; and

WHEREAS, NCAI supports a tribal licensing priority for tribal governments, tribal consortia, and entities that are more than 50% owned and controlled by a tribe(s). This is consistent with FCC rules governing the tribal priority in the broadcast radio licensing context, and the legal foundation for providing opportunities to tribes for access to spectrum is based on the federal government's trust relationship with tribal governments; and

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WHEREAS, tribal governments, residents, and first responders have critical communications needs that remain unmet; carriers maintain a stronghold on wireless telecommunications licenses and have failed to meet these tribal needs.

THEREFORE BE IT RESOLVED, the NCAI strongly supports FCC rule modifications requiring carriers to immediately engage with tribal governments and either divest themselves of their FCC licenses over tribal areas or provide services to tribal lands within on a mutually agreed deployment schedule; and

BE IT FURTHER RESOLVED, the NCAI urges the FCC to support tribal efforts to use spectrum services and allocations on tribal lands should be managed in deliberated consultation with tribal governments on deployment of services, rights of way, business and tribal regulatory permissions, and tribal governments should be a part of the licensing approval and renewal process for non-tribal licenses; and

BE IT FURTHER RESOLVED, that the FCC must provide as much and sufficient spectrum to meet the public needs of Native communities. As a matter of sovereignty and trust responsibility, such vital spectrum should be provided free to Native communities. Tribal service areas should be a single service area for the entire community. If there needs to be payment for spectrum licensing, then Native governments should be given the priority to serve themselves with reserve costs calibrated (and thus, the first right of refusal for license ownership); and

BE IT FURTHER RESOLVED, that NCAI urges all spectrum policy impacting Native communities be deliberated in consultation with tribal governments; and

BE IT FURTHER RESOLVED, that the NCAI urges termination of the existing tribal bidding credit program and any reformed tribal bidding credit or tribal priority program must have the two key components: 1) such program or priority must result in tribes actually attaining licensing in their communities; and, 2) that every Native community and tribal government be able to use spectrum over their lands or communities for public interest needs; and

BE IT FURTHER RESOLVED, that the NCAI supports the establishment of a Tribal Priority for licensing Wireless Radio Services, thereby expanding the current tribal radio broadcast licensing priority and creating opportunities for access to unlicensed or unallocated Wireless Radio Services licenses to increase access to communications services; and

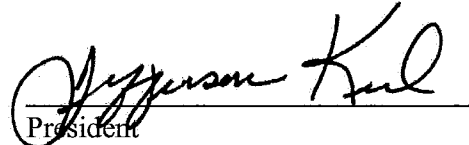
BE IT FURTHER RESOLVED, that the NCAI supports ensuring that this new tribal priority be available to qualifying tribal entities for spectrum access, and a qualifying tribal entity for these purposes would be an entity designated by the tribal government(s) having jurisdiction over particular tribal land for which the spectrum access is sought, or the tribal government(s) for a tribe residing in a single identifiable geographic unserved area; and

BE IT FURTHER RESOLVED that the NCAI supports the FCC requiring new licensees to consult with tribal governments for deployment of services over tribal lands and to build or divest a geographic area covering unserved or underserved Tribal lands within its license area within three years of receipt of a construction permit from the FCC, thereby promoting the availability of services to residents in the affected tribal areas within a reasonable length of time and to compel current licensees to immediately consult with tribal governments and either divest themselves of their FCC licenses over tribal areas or provide services to tribal lands within a mutually agreed deployment schedule; and,

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

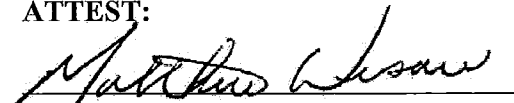
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President

ATTEST:



Recording Secretary

Attachment 2

Statement of Loris Taylor
Native Public Media and
NCAI Telecommunications Subcommittee

Before the
The United States Senate
Committee on Commerce, Science and Transportation

Hearing on

**Closing the Digital Divide: Connecting Native Nations and
Communities to the 21st Century**

Chairman Rockefeller, Ranking Member Hutchison, Members of the Committee, on behalf of the National Congress of American Indians (“NCAI”) and Native Public Media (“NPM”), I am honored to provide testimony on how to close the digital divide for our country’s Native Nations.

In the United States, there are 565 federally recognized American Indian Tribes and approximately 4.1 million American Indians and Alaska Natives. Thirty-two percent of this population still is without basic telephone service. Twenty-five percent live at or below the poverty line. Twenty-two percent are unemployed. Ninety percent of Native Americans have no access to high speed Internet. Less than 0.3 percent of the broadcast stations in this country are licensed to Native Americans.

The absence of adequate communications services in Indian Country is no accident. Decades of failed federal policy, market forces, and the socioeconomic conditions of Native American populations located in some of the most remote areas of the country result in high build-out costs for all media. Because of these factors, wireline carriers frequently end their deployments at the borders of Tribal land or serve the populated fringes, not the entire reservation.

- **The Tribal Priority**

In February 2010, the Federal Communications Commission (FCC) adopted a proposal that promotes the sovereign rights of Tribes by giving them a priority in the allocation of spectrum that serves Tribal lands. The Native Nations Priority is currently limited to broadcast spectrum and to Tribes with reservations. Two hundred fifty-three Tribes, almost half of the 565 federally recognized Tribes, are “landless.” For the Native Nations Priority to be truly meaningful, it must be extended to all Tribes and to all forms of spectrum. We applaud recent FCC proceedings that explore that potential.

- **The Office of Native Affairs and Policy**

Last year, the FCC established the Office of Native Affairs and Policy to coordinate federal communications policy and redress years of policy neglect of Native Nations. Within months of its creation, the Commission launched three proceedings. Those proceedings seek to extend the broadcast “tribal priority”; to improve access to mobile wireless communications; and to inquire into ways of improving broadband deployment to Indian Country and strengthening the FCC’s nation-to-nation consultation process. Collectively, these proceedings focus more attention on the communications needs of Native Americans than has been the case for the preceding history of the Communications Act.

It is critical that this attention not be fleeting or symbolic. Without a budget sufficient for its mission, the Office of Native Affairs and Policy cannot carry out its mission of consultation with Tribes on a government-to-government basis. There is currently no line item in the FCC’s budget for the Office of Native Affairs and Policy and its consultation with Tribes. We ask that you take this Office and its functions as seriously as we do by assuring that it is adequately funded. NCAI has proposed a budget of \$1.5 million for the Office of Native Affairs and Policy.

- **BIP and BTOP Programs.**

Only a handful of tribes and tribal organizations received grants from the Broadband Initiatives Program (BIP) and the Broadband Technology Opportunities Program (BTOP) administered by the Department of Commerce and Department of Agriculture. It is not too late to assure that funds intended to stimulate service to unserved and underserved areas can achieve that goal by bringing broadband service to Tribal Lands. We recommend that funds returned to those programs be reserved for the deployment of broadband services to Tribal Lands.

- **The Native Broadband Fund**

We support the establishment of a Native Nations Broadband Fund targeted to the needs of Indian Country. We also believe that grants should not be limited to deployment costs. Access is part, but only part of the problem. Unlike telephone and broadcast services, which are instantaneously available, broadband technologies cannot effectively be used without training. Programs that teach digital literacy are needed, and Native Americans are eager to learn. A study conducted by Native Public Media and New America foundation shows that where Native Americans had Internet access, their rates of use tended to be higher than the national average. We therefore support the creation of a Native Nations Broadband Fund, with the ability to award grants for the advancement of digital literacy, as well as for providing service to Tribal headquarters and other tribal anchor institutions

- **Traditional Forms of Communications**

In reforming the Universal Service Fund to make broadband services more available, it is important not to destroy the traditional High Cost, Lifeline and Link-up programs that make basic analog phone service affordable to many in Indian Country. Existing programs are equally essential for traditional broadcast services, which remain the simplest, cheapest, and most

effective form of mass communications. For the first time in 7 years, the FCC, in 2007, accepted applications for new noncommercial FM stations. It has awarded construction permits that would double the number of Native stations. Because of the economic recession, and threatened cut-backs in federal funding to NTIA's Public Telecommunications Facilities Program, many of those permits are now at risk of expiring. If these permits expire, the opportunity for reapplying is not likely to arise for many years to come. We urge action on two fronts: first, to give holders of these permits a chance to extend fundraising efforts, a 1-year tolling of the construction period for these permits; and second, the preservation of funding to PTFP and CPB. Without continued support for station operations from CPB, all Native stations are in jeopardy.

Some day Indian Country will have access to high speed Internet services, wireless communications on multiple platforms, and all the wonders of new technology. But that day has not yet arrived and will not arrive for some time to come. For the foreseeable future, we need your help in preserving and expanding the public broadcast system in Indian Country.

On behalf of the National Congress of American Indians and Native Public Media, I again thank you for the opportunity to share this testimony with you.