

**Written Statement of  
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Federal Communications Commission**

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

**Committee on Commerce, Science, and Transportation  
United States Senate  
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Chairman Rockefeller, Ranking Member Hutchison, and Members of the Committee, thank you for the opportunity to testify today about the critical communications issues facing Native Nations and the Commission’s efforts to find solutions.

The lack of telecommunications services in Indian Country is alarming. After over 70 years of development and expansion of the telecommunications industry, only 68.9 percent of residents in Native Nations have basic telephone service. The statistics for broadband penetration are even more troubling – less than 10 percent of residents of Native Nations have access to what is fast becoming the lifeblood of our 21st century economy, educational opportunities, health care, and public safety.

However, the oft-cited statistics paint only part of the picture – behind them lurks a stark reality. The negative impacts of history fell particularly hard on Tribal and Native Communities, and aspects of this history resulted in an alarming lack of critical infrastructures. Broadband opportunities can do much to level this history in bringing health care, education, and jobs to Native Nations, but it must be available, accessible, and affordable to meet its promise. The purpose of the Office of Native Affairs and Policy is to change the way we approach the communications problems of Native Nations and Communities. There are numerous and comprehensive communications needs throughout Indian Country, and there is great diversity

within those critical needs. That is, the need for telemedicine is greatest for some Native Nations, while the needs for educational technology or public safety are paramount for other Native Nations. In many places, connectivity occurs only in border towns and along major transportation routes inside Native Nations. It is clear that one size fits none, and the enormity of our mission is vast. Changing our rules alone is not enough. We cannot – and will not – be able to only sit here in Washington, make minor tweaks to our rules to do what we think will work, and wait to see if they do. Complex problems dictate the need for new policies and procedures, and well thought-out solutions.

That is the mission of the Office of Native Affairs and Policy, created by a unanimous vote of the Commission on August 12, 2010, implementing a recommendation of the National Broadband Plan. The Office is charged with developing and driving a Tribal agenda at the Commission and serves as the Commission's primary point of contact on Native issues. Under Chairman Genachowski's leadership, and with the involvement of the entire Commission and all of its Bureaus and Offices, there is a new way of doing Native business at the Commission, and Native Nations are front and center in that new paradigm. Our work with Native Nations is a strategic partnership, one in which we effectuate and exercise the trust relationship that the Commission shares with Native Nations.

The Office is charged with bringing the benefits of a modern communications infrastructure to all Native communities by, among other things, ensuring robust government-to-government consultation with Federally-recognized Tribal governments and other Native organizations; working with Commissioners, Bureaus, and Offices, as well as with other government agencies and private organizations, to develop and implement policies for assisting

Native communities; and ensuring that Native concerns and voices are considered in all relevant Commission proceedings and initiatives.

**The Efforts of the Office of Native Affairs and Policy**

To fulfill its mission, the Office is fostering the Commission's ongoing government-to-government dialogue with Native Nations by working directly with them to understand their needs and empower them to provide their own solutions. New opportunities must be created for Native Nations and those who work with them to find sustainable solutions. Our approach is to work together to identify and remove barriers to solutions and build models with Native Nations that engage their core community or anchor institutions. We seek to place Native Nations themselves in the center of those solutions, whether it is through actual self-provisioning of communications services or through new "Tribal-" or "Native-centric" methods of deployment with industry, public, or private partners. As Native Nations uniquely know and govern their communities, this active involvement is a critically important component to finding lasting solutions in their communities.

Immediately after being established, we hit the ground running, actually rolling out our introduction of the Office in Native America, while at the same time working across the Commission to surface actions and proposals. We logged thousands of miles on a "listening tour" from here to the Hawaiian Home Lands, seeking the input of American Indian, Alaska Native, and Native Hawaiian leaders. We went deep into the Native Nations, meeting collectively and individually with Native leaders and Native associations, Tribally-owned and operated communications providers, as well as talking with Native consumers and businesses.

To obtain a firsthand view of the complexity of the problems, in places where the Commission had never been before, we engaged in distance education discussions from

classrooms at the *Native* end of the signals. In remote health care clinics, accepting gracious invitations of the patients at the *Native* end of the line, we sat in on their diagnosis sessions with their far away doctors. We saw the human element of the lack of services, and the limitations of connectivity, speed, and reliability. Side-by-side with our Native Nation colleagues, we “kicked the dirt” within the Native Nations, to discuss how we can all help them with their development and deployment plans. Several times, we have had to reset our phones and blackberries, log off and log back in, and set our out-of-office automatic reply messages to let folks know we are traveling in unconnected regions.

To fulfill our mission and transform the communications landscape, the Office of Native Affairs and Policy cannot be just another outsider from Washington. Instead, the Office must be a knowledgeable and respected Native Nations and Tribal lands *insider*. Collectively, our four senior staff members have over 40 years of experience working in the trenches of the Commission and directly with Native Nations. We stand ready for the challenge.

Our work has just begun. Under the Chairman’s leadership, the Commission launched a series of groundbreaking endeavors at its March 3rd Open Meeting, on a day the Commission named “Native Nations Day.” It was a day of “firsts”-- the first time that the Commission used its meeting agenda to address matters entirely and specifically developed for Native Nations; the first time that Tribal leaders formally addressed the Commission at the start of an Open Meeting; and the first time that the Commission initiated a comprehensive inquiry and rulemaking proceeding focused exclusively on Native communications needs.

From rules expanding broadcast opportunities, to proposed rules for new mobile wireless licensing opportunities, to an omnibus inquiry on a range of issues related to broadband adoption and deployment on Tribal lands, the proceedings of Native Nations Day will in part serve as the

foundation for the nation-to-nation consultation with Native Nations that is a critical component of the Commission's rulemaking process.

***The Proceedings of Native Nations Day – New Commission Approaches***

***The Rural Radio Tribal Priority Order.*** Native Nations want to provide information and community news to their people, and are looking at radio programming to promote and preserve Native culture and language, and to advance cultural dialogue. Last year, the Commission took steps to address the imbalance in the number of radio stations licensed to Native Nations and communities, as compared to the rest of the country, when it adopted an historic Tribal Priority designed to award a decisive preference to any federally recognized American Indian Tribe or Alaska Native Village seeking to establish its first non-commercial radio station on its Tribal lands. The Tribal Priority was greeted with enthusiasm by Native Nations, but it was noted that certain Native Nations, because of their historical or geographic circumstances, might not be able to take advantage of the priority. In a Second Report and Order adopted on Native Nations Day, the Commission addressed these special circumstances by adopting provisions to address the needs of non-landed Native Nations and those with small or irregularly shaped lands that make it difficult to meet some of the requirements of the Tribal Priority. In addition, the Commission adopted a Notice of Proposed Rulemaking seeking comment on proposals to apply the Tribal Priority to certain commercial FM channel allotments and potentially obviating the need to go to auction. The hope is that these new mechanisms can help Native Nations deploy services in this critical and widely adopted media technology, as they also build designs and resources for new advanced broadband platforms.

***The Wireless Spectrum Tribal Lands Notice of Proposed Rulemaking.*** While competitive market forces have spurred robust wireless communications services in many areas

of our country, wireless connectivity for Native Nations remains at significantly lower levels. Native Nations have expressed to us many concerns that the situations they face at home involve the very basics of public safety – the inability to make a wireless call in an emergency. Native Nations have asked the Commission for greater access to robust wireless spectrum to meet the challenges of terrain and distance that many Native communities face and, for some time now, the need for this action has been critical. On Native Nations Day, the Commission adopted a Notice of Proposed Rulemaking to promote greater use of spectrum to help close the communications gap on Tribal lands and to ensure that Native Nations are at the center of the decision-making process. This NPRM, one of the most important requests from Native Nations in the last decade, strives to put licenses in the hands of those who will value the spectrum and build out on Tribal lands. Three of the five proposals launched in the NPRM would create new opportunities for Native Nations to gain access to spectrum through Wireless Radio Services licenses, while the other two proposals are designed to create new incentives for existing licensees to deploy wireless services on Tribal lands.

*The Native Nations Notice of Inquiry.* The Commission has said on many occasions that broadband is indispensable infrastructure for economic growth and job creation, and nowhere is that need more acutely felt than on Tribal lands. The lack of robust broadband services – and, in fact, even basic communications services – contributes to the challenges Native Nations face in building strong economies with diverse businesses and development projects. On Native Nations Day, therefore, the Commission launched a broad-based inquiry into a wide range of communications issues facing Native Nations – an inquiry that will provide a foundation for updating the Commission’s rules and policies to provide greater economic, market entry, and communications adoption opportunities and incentives for Native Nations.

The result of a broad collaborative effort across the Commission, led by the Office of Native Affairs and Policy, the Notice will lay the groundwork for policies that can help Native Nations build economic and educational opportunities for their own Tribal lands. The Notice seeks comment on the best ways to support sustainable broadband deployment, adoption, and digital literacy training on Tribal lands. Among other important questions, the Commission also asks about the possibility of expanding the Tribal Priority concept into a Native Nations Priority, to identify and remove barriers to entry, rather than using a case-by-case waiver approach, thus making it easier for Native Nations to provide other services – wireless, wireline, and satellite – to their communities. The Commission also asks about opportunities to use communications services to help Native Nations address public safety challenges on Tribal lands, including the broad lack of 911 and E-911 services, and the needs of persons with disabilities on Tribal lands.

Recognizing that, given their unique challenges and significant obstacles to broadband deployment, Native Nations need substantially greater financial support than is presently available, the Notice of Inquiry also seeks comment on a recommendation of the National Broadband Plan to establish a Native Nations Broadband Fund. The National Broadband Plan notes that grants from a new Native Nations Broadband Fund could be used for a variety of purposes, including bringing high-capacity connectivity to governmental headquarters or other anchor institutions, deployment planning, infrastructure build out, feasibility studies, technical assistance, business plan development and implementation, digital literacy, and outreach. In the Notice of Inquiry adopted on Native Nations Day, the Commission seeks comment on a number of issues associated with the establishment of the Native Nations Broadband Fund, including the need for such a fund, the purposes for which it would be used, and the level of funding.

***The Low-Income Notice of Proposed Rulemaking.*** The Low-Income program of the universal service fund, commonly known as Lifeline and Link Up, has been, and continues to be, a critically important component in extending the reach of communications services to Native Nations. But with a telephone penetration rate hovering below 70 percent and a broadband penetration rate well below ten percent, much remains to be done. According to Gila River Telecommunications, Inc., a Tribally-owned telecommunications company, the telephone penetration rate for the Gila River Indian Community stands at 86 percent, still well below the national average of 98 percent but significantly above the average on Tribal lands. Gila River attributes its success in expanding the reach of telephone service largely to Lifeline, given that roughly 91 percent of the Community's elders participate in Lifeline. At the afternoon session of its March 3d Open Meeting, the Commission adopted a Notice of Proposed Rulemaking in which it proposes to reform and modernize Lifeline and Link Up – issues of great interest to Native Nations.

***The FCC-Native Nations Broadband Task Force.*** One of the top requests from Native Nations in the National Broadband Plan was the creation of a new FCC-Native Nations Broadband Task Force that would ensure that the Commission's consultation with Native Nations is an ongoing, continuous dialogue and a shared effort between partners. Chairman Genachowski fulfilled this request when, on Native Nations Day, he appointed to the Task Force 19 members representing Native Nations and 11 members representing Bureaus and Offices across the Commission. The Task Force will ensure that Native concerns are considered in all relevant Commission proceedings and will work to develop additional recommendations for promoting broadband deployment and adoption on Tribal lands. The Task Force will also coordinate with external entities, including other federal departments and agencies. These efforts



will culminate in more efficient ways of working with our Native Nation partners, the industries, and the institutions of Native Nations.

**Conclusion: Coordinating and Consulting on a Commission-wide Native Agenda**

Critical to the work of the Office of Native Affairs and Policy is its close coordination with other Bureaus and Offices across the Commission. Major rulemakings now always include the involvement of Native interests. For example, working closely with the Wireline Competition Bureau in the universal service reform context, the Office ensured that Native concerns were heard about losing voice service while undergoing a transition to new broadband technologies that may take longer to embed themselves in Native America than in other parts of America. To that end, the Office ensured that the Commission sought comment on whether a separate mechanism would be appropriate for Native Nations. Similarly, the Office of Native Affairs and Policy is working closely with the Wireless Telecommunications Bureau as they develop the Mobility Fund, which is a set of initiatives to promote deployment of broadband and mobile services and to provide an investment in wireless infrastructures, through a financially sensible transformation of the universal service fund. With our help and guidance, the Commission proposes to address Mobility Fund support for Tribal lands on a separate track to provide adequate time to coordinate with Native Nations, seek their input, and find good solutions. We will continue to provide guidance on a variety of rulemakings and initiatives throughout the Commission.

The Office of Native Affairs and Policy is ready to roll up our sleeves and pull out our laptops as we continue our mission. Native Nations Day was a success, and the Commission is proud of the work it has done so far. However, we must build on that success and the success of our other activities since the creation of the Office a mere eight months ago. Among other

things, one of our top priorities is to overhaul, update, and increase the collaborative value of the Commission's Indian Telecom Initiatives, or ITI, program, moving it from version 2.0 to version 10.0 and even beyond. We look forward to increasing the effectiveness and value of these regional workshops, trainings, consultation, and networking events. We also look forward to establishing a federal interagency broadband working group that engages other federal agencies concerned with Native Nations and with missions on Tribal lands related to broadband and communications deployment, such as education, health, public safety, energy, cultural preservation, and economic empowerment. With a new inter-agency initiative on Native broadband, the federal government can coordinate both internally and directly with Native Nations on broadband-related policies, programs, and initiatives.

Internally, we look forward to working with colleagues across the Commission to increase the value of the information tools that the Commission has for Native Nations and Communities. For example, the Commission's Spectrum Dashboard 2.0, which was unveiled last month, allows users to view the licenses and spectrum leases that cover specific or all Tribal lands. We plan to continue holding meetings with Native Nations to discuss how this and other Commission information tools can be improved and more responsive to the needs of Tribal communications planners. We also look forward to reviving an internal training and speaker series for decision makers and colleagues across the Commission on how to work with Native Nations and the basics of how to coordinate and conduct consultations with Native Nations.

In conclusion, we have heard several recurring themes in our conversations with Native leaders – continue to meet with us, listen to us, and use what we tell you to bring communications on Tribal lands into the 21st century. The overarching message is that, if consultations are to be successful, if future education and training sessions are to be well-

attended and productive, and if efforts to inform, educate, and put Native Nations at the center of the decision-making process are to succeed, we must do our work with Native Nations largely within their Native communities. Native Nations are aware of our Office's abilities and many have told us that, in order to best help them solve communications problems, we must work with them where the problems exist, see the problems first-hand, and endeavor to find the solutions in concert with them. We welcome all of these opportunities.

Thank you again for the opportunity to testify this afternoon. I look forward to answering any questions you may have.