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Federal Communications Commission
Washington, D.C. 20554

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March 15, 2019

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MAR 15 2019

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-B204
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

Re: Ex Parte Notification

Promoting Telehealth for Low-Income Consumers, WC Docket No. 18-213; Universal Service Fund – Mobility Fund, WT Docket No. 10-208; Transforming the 2.5 GHz Band, WT Docket No. 18-120; Bridging the Digital Divide for Low-Income Consumers, WC Docket No. 17-287; Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10; Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197; Connect America Fund, WC Docket No. 10-90; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79; Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands, WT Docket No. 11-40

Dear Ms. Dortch:

On February 14, 2019, Tribal leaders and other Tribal representatives affiliated with the National Congress of American Indians (NCAI) met with the Chairman and members of the Federal Communications Commission (FCC), their staff, and with staff across many of the FCC's Bureaus and Offices, in a day-long meeting at the FCC held as part of NCAI's Executive Council Winter Session. Some members of the FCC's Native Nations Communications Task Force (NNCTF) also joined part of the meeting by teleconference.

NCAI Officials, Members and Member representatives in attendance were:

- Tanner Amdur-Clark, Associate, Sonosky, Chambers, Sachse, Endreson & Perry LLP
- Cheryl Andrews-Maltais, Chairwoman, Wampanoag Tribe of Gay Head (Aquinnah)
- Geoffrey Blackwell, NCAI Telecommunications Subcommittee Co-Chair,
Chief Strategy Officer & General Counsel, AMERIND Risk
- Nancy Carnley, Vice Chief, Ma-Chis Lower Creek Indian Tribe of Alabama
- Irene Flannery, Director, AMERIND Critical Infrastructure
- Gary Loonsfoot, Jr., Tribal Historic Preservation Officer & Vice Chairman,
Keweenaw Bay Indian Community
- Matthew Rantanen, NCAI Telecommunications Subcommittee Co-Chair,
Director of Technology, Southern California Tribal Chairmen's Association,
Vice Chair, Native Public Media

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- James Reid, Capitol Hill Policy Group, for Keweenaw Bay Indian Community
- Tyler Scribner, Policy Analyst, NCAI
- Leslie Wheelock, Counsel, for Oneida Nation of Wisconsin & Native Public Media
- Holmes Whalen, Counsel, Majority Staff, Senate Committee on Indian Affairs
- Danae Wilson, Department of Technology Manager, Nez Perce Tribe

Other NCAI members, NNCTF members and Tribal representatives who participated via teleconference were:

- Susie Allen, Councilwoman, Confederated Tribes of the Colville Reservation
- Bill Bryant, President, Saddleback Communications
- Joe Garcia, Head Councilman, Ohkay Owingeh Pueblo
- Donald Long Knife, Information Technology Specialist, Fort Belknap Indian Community
- Belinda Nelson, Director, Gila River Indian Community Utility Authority and Gila River Telcom, Inc.
- Theron Rutyna, IT Director, Red Cliff Band of Lake Superior Chippewa Tribe

The Chairman, Commissioners and Commission staff with whom the NCAI members met were:

- Honorable Ajit Pai, Chairman
 - Zenji Nakazawa, Consumer Protection and Public Safety Advisor
- Honorable Michael O'Rielly, Commissioner
 - Erin McGrath, Legal Advisor, Wireless, Public Safety & International
- Honorable Brendan Carr, Commissioner
 - Jamie Susskind, Chief of Staff
- Honorable Jessica Rosenworcel, Commissioner
 - Jessica Martinez, Special Advisor & Confidential Assistant
- Honorable Geoffrey Starks, Commissioner
 - Randy Clarke, Acting Legal Advisor, Wireline & Public Safety
- Patrick Webre, Chief, Consumer and Governmental Affairs Bureau
- Barbara Esbin, Deputy Chief, Consumer and Governmental Affairs Bureau
- Matthew Duchesne, Chief, Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
- Sayuri Rajapakse, Deputy Chief, Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
- Janet Sievert, Senior Legal Advisor, Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
- Susan Mort, Legal Advisor, Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
- Carolyn Conyers, Program Advisor, Office of Native Affairs and Policy, Consumer and Governmental Affairs Bureau
- Nancy Zaczek, Special Counsel, Wireless Telecommunications Bureau
- Nadja Sodos-Wallace, Attorney Advisor, Wireless Telecommunications Bureau
- Steve Rosenberg, Chief Data Officer, Wireline Competition Bureau
- Ian Forbes, Attorney Advisor, Wireline Competition Bureau
- Suzanne Yelen, Assistant Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau
- Chelsea Fallon, Director, Rural Broadband Auctions Task Force
- Jonathan McCormack, Attorney Advisor, Office of Economics and Analytics

In successive meetings with the Chairman, Commissioners, and Commission staff, meeting participants discussed their views on several matters pending before the Commission that directly affect Tribal Nations and entities, including access to spectrum over Tribal lands, mapping and other Tribal broadband deployment issues, several Universal Service Fund ("USF") programs, and recent changes under Section 106 of the National Historic Preservation Act.¹

At the outset, several meeting participants observed that Tribes are not exclusively rural – many Tribal lands exist in population-dense, yet still unserved or underserved urban and suburban environments, particularly on the east coast of the country. Given this, participants such as Geoffrey Blackwell and Cheryl Andrews-Maltais urged the Commission to consider Tribal issues in this broader context and not solely in rural-focused proceedings.

Participants stated that significant spectrum needs remain and argued for greater Tribal access to spectrum over Tribal lands. With respect to the pending rulemaking to modernize EBS in the 2.5 GHz band,² Geoffrey Blackwell and Matthew Rantanen stressed how important Tribal access to 2.5 GHz spectrum could be for closing the digital divide in Indian country, and the need to establish a Tribal priority window for obtaining licenses. Mr. Rantanen confirmed Tribes have taken advantage of 2.5 GHz spectrum in the past to deploy into very remote areas and would like the opportunity to do so in the future. Mr. Rantanen and Tanner Amdur-Clark expressed concern that the potential use of auctions for new authorizations would preclude Tribal participation, as Tribal entities face unique financing challenges which put them at a disadvantage as compared with commercial carriers. Danae Wilson urged caution in rationalizing existing licenses based on census tracts, given the significant disconnect between such tracts and Tribal lands.

In connection with Tribal deployment efforts for both wireless and wireline services, Tribal participants detailed concerns about the data sets used for mapping purposes, including census blocks and Form 477 data. In some cases, unincorporated areas and islands are not captured in such data sets. Further, as Tribal housing is often multigenerational and frequently does not use traditional addressing, existing service areas may not be accurately reflected in conventional data sets. Ms. Wilson and Mr. Rantanen expressed a need for more granular service data to help identify unserved areas, and the willingness of Tribes to partner with carriers and other entities to achieve this result.

Ms. Wilson also detailed the extensive efforts of the Nez Perce Tribe to map existing wireless service to its Tribal lands in connection with the Mobility Fund Phase II challenge process, along with certain technical challenges they experienced involving the FCC's Speed Test application. Ms. Wilson stressed the importance of having carriers utilize the same procedures and equipment they required Tribes to use when responding to any challenges. This would include prohibiting carriers from using any priority spectrum or preemption equipment or services. Ms. Andrews-Maltais asked that any subsidies intended to provide service on Tribal lands which ultimately come from the Mobility Fund Phase II be tied to actual service on such lands.

¹ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Notice of Proposed Rulemaking, 32 FCC Rcd 3330 (2017); *see also Comment Sought on Draft Program Comment for the Federal Communications Commission's Review of Collocations on Certain Towers Constructed Without Documentation of Section 106 Review*, Public Notice, 32 FCC Rcd 10715 (2017).

² *See Transforming the 2.5 GHz Band*, WT Docket No. 18-120, Notice of Proposed Rulemaking, 33 FCC Rcd 4687 (2018).

Leslie Wheelock emphasized the need for FCC outreach to and coordination with other federal agencies and programs that impact broadband deployment. For example, Ms. Wheelock pointed out the ReConnect program at USDA is compiling service footprint data which could augment the FCC's mapping efforts. Ms. Wheelock also suggested it could create synergies that would benefit Tribes if future FCC spectrum auctions were timed to coordinate with the awarding of grants and funding pursuant to other federal programs such as ReConnect.

Meeting participants also generally spoke in support of the Commission's Connected Care efforts, given the importance of telehealth to Tribal communities, as well as the E-rate program, which has been successful in connecting many Tribal schools and libraries. Tribal representatives expressed appreciation for the inclusion of a Tribal Broadband Factor in the Commission's recent *Rural Broadband Order*, as well as a similar factor in a pending proceeding covering legacy carriers.³ They noted further that challenges exist for Tribal entities in seeking funding to serve their own lands and expressed frustration with carriers who obtain such funding and fail to adequately serve Tribal lands.

Finally, several Tribal participants, including Gary Loonsfoot, Jr., expressed concerns about recent changes to the section 106 review process, which they claim adversely affected participating Tribes. Mr. Loonsfoot also raised concerns about the status of "Twilight Towers" that have not undergone section 106 review and whose locations are unknown but may impact Tribal lands.

If you have any questions regarding the above, please do not hesitate to contact me or any member of the Office of Native Affairs and Policy. Pursuant to section 1.1206(b) of the Commission's rules, this letter will be filed electronically in the above-referenced dockets.

Sincerely,



Barbara Esbin

Deputy Chief

Consumer and Governmental Affairs Bureau
Federal Communications Commission

cc (via email):
Susie Allen
Tanner Amdur-Clark
Cheryl Andrews-Maltais
Geoffrey Blackwell
Bill Bryant
Nancy Carnley
Irene Flannery
Joe Garcia
Donald Long Knife
Gary Loonsfoot, Jr.
Belinda Nelson
Matthew Rantanen
James Reid

³ See *Connect America Fund*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking and Order on Reconsideration, FCC 18-176 (rel. Dec. 13, 2018).

Theron Rutyna
Tyler Scribner
Holmes Whalen
Leslie Wheelock
Danae Wilson
Hon. Ajit Pai
Hon. Michael O'Rielly
Hon. Brendan Carr
Hon. Jessica Rosenworcel
Hon. Geoffrey Starks
Zenji Nakazawa
Erin McGrath
Jamie Susskind
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