THLOPTHLOCCO TRIBAL TOWN

Federal Charter 1938 – Creek Tribe
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Federal Communications Commission
Office of the Secretary
Attn: Commission's Secretary
445 12th Street SW.
Washington DC 20554

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RE: WT Docket No. 17-79
FCC 17-38
Statement for FCC Conference Call May 25, 2017 and Submitted as Written Communication to the FCC

Thlopthlocco Tribal Town, a federally recognized Tribe, requests the Federal Communications Commission consult with our federally recognized Tribe on a government-to-government basis regarding this proposed rulemaking, under Executive Order 13175. This Executive Order establishes a protocol for federal agencies and departments when considering, developing, and implementing policies that are anticipated to have significant impact on one or more recognized Tribes. The principles in the Executive Order afford Tribal governments maximum discretion in implementing federal policies within their communities while preserving the prerogatives and authority of Indian Tribes.

Executive Order 13175 requests that all federal agencies and departments develop protocols on how they plan to coordinate with Tribal governments. Each agency or department is directed to appoint a staff member responsible for ensuring compliance with Executive Order 13175. The protocols are submitted to the Office of Management and Budget for review.

Therefore, Thlopthlocco Tribal Town proposes the following:

1. Consultation on a government-to-government basis regarding the proposed rulemaking and other proposed changes;
2. A copy of the protocol submitted under the Executive Order on how the FCC plans to coordinate with the Thlopthlocco Tribal Town;
3. The FCC point of contact responsible for ensuring compliance with Executive Order 13175.

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On 55-page in the proposed rulemaking 17-79 "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment," and other associated proposals and actions, the information is quite extensive to consult with this quickly after notice to us. The large number of topics in this document and action could be handled in the way that most situations are handled by other Federal agencies.

The following can be discussed further in our government-to-government consultation:

1. The FCC bypasses consultation with Tribal Governments for Section 106 projects and delegates authority to the applicant, who in turn, may hire a consulting firm and delegate their procedure, research and compliance work;
2. Thlopthlocco Tribal Town established a review fee legislative action to address this unfunded federal mandate. The fee is charged to the consulting firm, or in rare circumstances, the applicant, to conduct the work needed for the compliance responsibilities they are being paid to perform;
3. Thlopthlocco Tribal Town reviews and responds via the TCNS system within 30 business days after having receive materials and payment. However, consulting firms and applicants do not provide the requested materials in a timely manner. Thlopthlocco Tribal Town has not received materials nor payment for TCNS projects dating back to August, 2016. Once materials and payments are received, Thlopthlocco Tribal Town completes the reviews within 30 days;
4. Thlopthlocco Tribal Town believes the Rulemaking by the FCC is attempting to override the National Historical Preservation Act which mandates the review of projects under Section 106. The proposed rulemaking changes appear to be industry-driven, and should not affect how a federal agency complies with federal law and direction;
5. Thlopthlocco Tribal Town believes a simple solution exist when similar situations have arisen amongst federally recognized Tribes. If there are deployments that the FCC feels are unlikely to impact cultural resources, in this case 'small cells,' these can be discussed in a government-to-government consultation.

We look forward to the FCC consulting with Thlopthlocco Tribal Town regarding these matters.

Sincerely,

Ryan Morrow
Town King

CC: NATHPO
TCNS File