



# The Confederated Tribes of the Colville Reservation

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Thursday, December 07, 2017

Secretary Marlene Dortch  
Federal Communications Commission  
445 12<sup>th</sup> St SW  
Washington, DC

RE: Opposition to Restoring Internet Freedom Order (WC 17-108)

Dear Members of the Commission:

On behalf of the Confederated Tribes of the Colville Reservation (“Colville Tribes”), please consider these comments in opposition to the Declaratory Ruling, Report and Order and Order titled “Restoring Internet Freedom” (hereinafter “Order”). For the reasons described herein, the FCC must preserve Net Neutrality indefinitely and should not vote this item forward.

Like other instrumentalities of the federal government, the Commission has a trust responsibility to act in the best interests of Indian tribal governments. It is not in the best interests of Indian tribes to be charged higher premiums for “internet fast lanes” or to access specific content. It is also not in the best interests of Indian tribes to have corporate monetary interference in the Government-to-Government Relationship that Indian tribes share with the United States. The Order would create a system where the Government-to-Government relationship could become “pay to play” for Tribal participation at the discretion of Internet Service Providers.

Also, the financial implications of this order on Indian Country cannot be understated. Tribal Nations’ budgets are focused on spending resources wisely to provide the best outcomes for their local communities. This action by the FCC will create an irresponsible misuse of federal funds to help pay for the increased costs of internet service.

Creating “Fast Lanes” and “Slow Lanes” creates an uneven playing field. Most of Indian Country is already in the “Slow Lane” and this would leave more people on the wrong side of the Digital Divide. According to the FCC, 68% of rural Tribal Lands and 41% of all Tribal Lands lack broadband access. Over 1.5 million people in Indian Country still do not have broadband access. Chairman Pai has announced his commitment to work with Indian Country to bridge the Digital Divide. This action will do just the opposite.

## **Background on the Colville Tribes**

The Colville Reservation is located in a rural isolated area in north-central Washington. The Colville Reservation is bounded on the west by the Okanogan River and on the south and east by the Columbia River, and the Reservation encompasses parts of both Okanogan and Ferry

counties. The Colville Reservation encompasses approximately 2,100 square miles and has a population

n density of 3.6 persons per square mile. By comparison, the Colville Reservation is slightly larger than the State of Delaware.

The Colville Reservation is divided into four districts: Omak, Nespelem, Keller and Inchelium. The community of Inchelium, located in the northeast portion of the Colville Reservation, is 86 road miles from Spokane, Washington—the nearest population center of over 20,000 residents. While many federal agencies define rural communities as those with populations of 50,000 or less, the entire Colville Reservation has less than 10,000 people. CenturyLink provides some DSL and telephone service to the Inchelium district and provides only telephone service to Nespelem and Keller. CenturyLink provides some DSL and telephone service to the Omak and Coulee Dam communities together with other carriers.

The Colville Reservation is home to 9,500 residents, which include both tribal members and non-Indians. Of those residents, 3,300 households are at or below the poverty line. More than 30 percent of the communities live in poverty and nearly 65 percent of the working population of the Colville Tribes is unemployed.

### **Corporate Interference in the Government-to-Government Relationship**

Repealing Net Neutrality will give Internet Service Providers (ISP) the opportunity to charge Tribal Nations more money to access the internet and to participate in the Government-to-Government relationship. At this point, it is unknown if ISP's will charge more or slow down service to access federal websites, but allowing the opportunity to do so is a threat to the Government-to-Government relationship.

Tribes should not have to pay a premium to corporations to access the federal government. The Colville Tribes has contracted many federal functions from the Bureau of Indian Affairs ("BIA") and the Indian Health Service ("IHS") under the Indian Self-Determination and Education Assistance Act of 1975. When the Colville Tribes performs these federal functions, in most cases it utilizes the Tribes' network infrastructure and existing contracts with ISPs. The costs of carrying out these contracts are captured as indirect costs or contract support costs in the contracts with the federal agencies. Sensitive data is transmitted through this infrastructure on a daily basis. To the extent the Order applies on-reservation tribal government usage of ISP services, the Order will result in these increased costs being passed directly on to the federal government.

### **Self-Determination**

A free and open internet is necessary for Tribal Self-Determination. Tribal Nations reserve the right to determine for themselves how their Tribal government and their citizens move into the future. An open internet is necessary for Tribal Nations to provide the best possible future for their citizens, free of high cost "fast lanes" and limited content. This would hinder all aspects of self-determination including emergency services, management of trust resources, access to educational resources and advanced healthcare technology.

Rural Tribal Communities like the Colville Tribes have adapted to the technological difficulties their remote areas face, especially for emergency services. Often times, social media, email or other internet websites are the only way to communicate in emergency situations because no other option exists in the area. If the FCC allows ISPs to charge more for “Fast Lanes” for social media, Tribal emergency response could be negatively affected. For areas where 911 services are not an option, communications through other internet means is sometimes the only way reach First Responders.

Education is a top priority across Indian Country, and the potential to lose access to educational resources online will be detrimental to the promise of Tribal Self-Determination. Many Native people access their education online through online classes, research, videos and other sites that require a lot of bandwidth. If ISPs are able to charge more for educational videos, many Native people will have no other options to attain their education.

Lastly, this order would significantly limit the promise of telehealth in Indian Country. Advanced telehealth solutions and videoconferencing has seen great success in rural Tribal Communities. However, these high data video conferencing programs are specifically the type of services this order targets for price increases. ISPs could also deliberately slow down one telehealth service in favor of another that may be supported by the company. The ISP could throttle one service in an effort to entice a Tribal healthcare provider to switch telemedicine programs. Companies should not be making the healthcare choices for Tribal communities; Tribes should be making the healthcare choices for their communities.

### **Financial Impacts on the Colville Tribes and our Tribal Members**

Many commenters have highlighted the detrimental financial impacts this order will have across the country, and Indian Country is no different. Tribal Governments like the Colville Tribes operate on strict budgets with very little room for increased costs this order would inevitably incur. Similarly, American Indians have some of the highest poverty rates in the country, nearly double the national average.<sup>1</sup> The financial disparities that hinder Tribal economic development and rural prosperity will only be made worse by this order.

Tribal Governments focus their financial resources to maintain and improve their communities. Incurring more costs for internet access will strain tribal budgets and will end up hurting the communities they serve. Tribes will have to make tough financial choices between full access to the internet and necessary programs for their community. In addition, since Federal money funds many Tribal Governments, federal funds will likely be used to cover these increased costs.

### **Conclusion**

The Order, if passed, has grave implications for Indian country. Tribal Governments may not have the same access to online programs that help manage Trust Resources. Tribal Governments may not have the same access to online solutions they have employed to run their governments.

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<sup>1</sup> American FactFinder, “Poverty Status in the Past 12 Months by Sex by Age: 2012 American Community Survey 1-Year Estimates, Table B17001,” available at <http://1.usa.gov/1jmLtWg> (last accessed June 2014); American FactFinder, “Poverty Status in the Past 12 Months by Sex by Age (American Indian and Alaskan Native Alone): 2012 American Community Survey 1-Year Estimates, Table B17001C,” available at <http://1.usa.gov/1pNq8KF> (last accessed June 2014).

Tribal Governments may be charged more to access online federal resources, which are costs that will in some cases be billed back to the federal government for those activities that tribes perform through 638 contracts. If Tribes are to be charged more for fast lanes or any other cost schemes, no one knows the economic impact for Indian Country.

For these reasons, the Colville Tribes urges the Commission not to finalize or otherwise take action on the Order.

Sincerely,

A handwritten signature in black ink, reading "Michael E. Marchand". The signature is written in a cursive, flowing style with a large initial 'M'.

Dr. Michael E. Marchand, Chairman