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Secretary Marlene Dortch
Federal Communications Commission
445 12th St SW
Washington, DC

Re: Puyallup Tribe's Opposition to Restoring Internet Freedom Order (WC 17-108)

Dear Members of the Commission:

On behalf of my client the Puyallup Tribe of Indians, I write to oppose the Federal Communications Commission's ("FCC" or "Commission") Declaratory Ruling, Report and Order, and Order entitled "Restoring Internet Freedom," WC Docket No. 17-108. For the Commission to uphold its trust responsibility to the Puyallup Tribe, the FCC must preserve Net Neutrality indefinitely and should not vote this item forward.

I. Introduction

The Puyallup Tribe ("Tribe") is a federally recognized Indian tribe located on the Puyallup Reservation near Tacoma, Washington. The Puyallup Tribe is an independent sovereign nation having historically negotiated with several foreign nations including the United States in the Medicine Creek Treaty of 1854. This relationship is rooted in Article I, Section 8, of the United States Constitution, federal laws and numerous Executive Orders. The governing body of the Puyallup Tribe of Indians is the Puyallup Tribal Council which upholds the Tribe's sovereign responsibility of

self-determination and self-governance for the benefit of the 5,006 Puyallup tribal members and the 25,000 plus members from approximately 355 federally recognized Tribes who utilize our services.

The Tribe relies on the internet to provide its tribal members and community with a variety of governmental services, such as health care, education, law enforcement, and other social services. The Tribe also relies on the internet to operate its various tribal enterprises, which fund the Tribe's governmental programs. Further, the Tribe uses the internet to operate and administer federal programs, which are federally funded. Net Neutrality is essential to ensuring that our internet service will be consistent and reliable in order to provide these governmental services to our members.

This Order proposes to repeal Net Neutrality in order to create a "pay to play" system where Internet Service Providers ("ISPs") could charge for internet service based on the type of traffic. This Order proposes a system where ISPs could even limit access based on who uses the internet. Under this Order, ISPs could block or throttle the Tribe's internet access unless the Tribe agreed to pay an additional cost. The Tribe would need to absorb this additional cost into its already strained budget or else it would be forced to reduce or eliminate governmental services.

The FCC has a trust responsibility to the Tribe to act in the Tribe's best interests. It is not in the best interest of the Tribe to be charged higher premiums for "internet fast lanes," or for access to specific content. It is also not in the best interest of the Tribe to have corporate interests interfere with the government-to-government relationship that the Tribe shares with the United States. If adopted, this Order would disclaim the FCC's trust responsibility to the Tribe by removing the Commission's ability to ensure fair and equal access to the internet.

In addition, this Order, if adopted, will hinder the Tribe's right to self-determination. The Tribe has the right to determine for itself the best future for their communities. A self-determined future requires a free and open internet full of possibilities for the Tribe and its members to share ideas, access knowledge and to use technology to protect trust resources.

Finally, the financial effects of this Order on the Tribe cannot be understated. The Tribe's budget is focused on spending resources wisely to provide the best outcomes for its community. This action by the FCC will create an irresponsible misuse of tribal and federal funds to help pay for the increased costs of internet service. The Tribe's resources and associated federal funds should not be used to pay multibillion dollar corporations more money to access the internet.

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. At the Mid-Year Convention for the National Congress of American Indians, Chairman Pai announced

his commitment to work with Indian Country to bridge the Digital Divide. This action will do just the opposite of that promise.

II. Corporate Interference in the Government-to-Government Relationship

If approved, this Order will allow ISPs to interfere with the government-to-government relationship between the Tribe and the United States. Repealing Net Neutrality will give ISPs the opportunity to charge the Tribe more money to access the internet and to participate in the government-to-government relationship. At this point, it is unknown if ISPs 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.

In 2017, most official correspondence between the Tribe and the Federal Government happens online: through email, electronic public comments and electronically noticed formal consultations. This Order gives ISPs free reign to charge the Tribe and its members more money to access Federal websites, including Regulations.gov and the FCC's own Electronic Comment Filing System.

The Tribe should not have to pay a premium to corporations to access the Federal Government. The government-to-government relationship should never be "pay to play." The FCC has an obligation to provide an open and free communicative relationship between the Federal Government and the Tribe. This Order will most definitely damage that relationship across all Federal agencies.

III. Self-Determination

A free and open internet is necessary for tribal self-determination. An open internet is necessary for the Tribe to provide the best possible future for its members, free of high cost "fast lanes" and limited content. This Order would hinder all aspects of self-determination, including emergency services, management of trust resources, access to educational resources and advanced healthcare technology.

This Order would have major implications on the management of trust resources. The Tribe uses the internet to monitor and manage its homeland and natural environment. The Tribe needs unfettered access to online resources and programs to carry out its duty to manage the natural environment necessary to sustaining its tribal culture. Advanced mapping and data requires substantial bandwidth which could become much more expensive for the Tribe's governmental departments.

Education is a top priority for the Tribe, and potentially losing access to educational resources online will be detrimental to the future of the Tribe and self-determination. Many tribal members 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 tribal members will have no other options to attain their education.

Finally, this Order would significantly limit the telehealth opportunities for the Tribe's Reservation. Advanced telehealth solutions and videoconferencing have seen great success in tribal communities. However, these high data video conferencing programs are exactly the type of services that this Order targets for price increases. An ISP 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 our community.

IV. Financial Impacts on the Tribe and its Members

Many commenters have highlighted the detrimental financial impacts this Order will have across the country, and the Tribe is no different. The Tribe operates on a strict budget with very little room for increased costs that this Order would inevitably create. Similarly, American Indians have some of the highest poverty rates in the country, nearly double the national average.¹ The financial disparities that hinder tribal economic development and prosperity will only be made worse by this Order.

The Tribe focuses its financial resources to maintain and improve its community. Incurring additional costs for internet access will strain the Tribe's budget and will end up hurting the community we serve. The Tribe will need to make tough financial choices between full access to the internet and necessary programs for its community. In addition, the Tribe will need increased federal funding to cover increased costs, since the Tribe relies on federal funds to support many tribal programs. This not only strains the community's limited resources but is also a misuse of federal funds.

V. Conclusion

There are many unknowns about the extent to which this Order, if passed, will impact the Tribe. The Tribe may not have the same access to online programs that it uses to help manage and provide governmental services to tribal members. The Tribe may not have the same access to online solutions it has used to run its government. The Tribe may be charged more to access online federal resources, thereby allowing corporations to interfere with the government-to-government relationship that exists between the Tribe and the United States. The Tribe could be charged more to provide emergency services, health care, educational resources, and other governmental services. These

¹ 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).

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increased costs will have a disproportionate impact on tribal members who rely on the Tribe's services. If the Tribe is to be charged more for fast lanes or any other paid prioritization schemes, the Tribe will be forced to reduce services to cover the increased costs.

If rates increase or "fast lanes" are created, more tribal members will be off the internet. This is in direct conflict with the mission of the FCC Office of Native Affairs and Policy and with the mission Congress tasked to the FCC. The 1934 Communications Act that created the FCC tasked it with carrying out principles of Universal Service. Universal Service means that all Americans should be able to access telecommunications services. We ask the FCC to remember its authorizing language and preserve a free and open internet for all.

Sincerely,



Mary J. Pavel