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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

AUG 22 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Implementation of Section 309(j) ) PP Docket No. 93-253  
of the Communications Act - )  
Competitive Bidding )

To: The Commission

**PETITION FOR FURTHER CLARIFICATION**

Cook Inlet Region, Inc. ("CIRI"), by its attorneys, submits this Petition for Further Clarification in the above-captioned proceeding.

CIRI urges the Commission to confirm clearly that the federal policy regarding Tribal affiliation rules shall be fully applicable to all size determinations under the Commission's rules for preferences within the entrepreneur's blocks (C&F) for the broadband PCS auctions.<sup>1</sup> While CIRI will promptly be filing more detailed comments regarding this clarification in response to the Commission's recent Order on Reconsideration,<sup>2</sup> CIRI commends this approach to the Commission based on six key considerations.

(1) The proper consideration of size determinations for Indian Tribes (including Alaska Native Corporations) is an area as to which Congress has indicated a clear policy and as to which

1. Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Fifth Report and Order, FCC 94-178, ¶ 118-27, 156-92 (rel. July 15, 1994).

2. Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Order on Reconsideration, FCC 94-217 (rel. Aug. 15, 1994).

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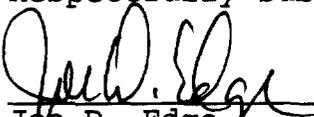
the Commission has no historical expertise; (2) the determination by Congress is that tribes are disadvantaged entities that are unique aggregations of relatively poor individuals, and that special affiliation rules are appropriate for such entities; (3) Tribal assets have restrictions and inherent obligations that uniquely limit their access to capital; (4) the SBA rules, which were extensively borrowed by the Commission and as to which Congress mandated the Tribal affiliation rules, serve SBA programs with much tougher entry restrictions than the Commission's "small" business qualifications; (5) the Commission has an obligation to ensure that its policies are consistent with federal policies in areas outside its expertise; and (6) the fairness and workability of the Commission's rules regarding "small" businesses (e.g., qualifying individuals can have up to \$40 million in net worth, or a dozen such individuals can group together and have \$480 million in net worth) must be weighed in light of the congressionally-approved affiliation rules applicable to Native Americans.

#### **CONCLUSION**

Accordingly, CIRI asks the Commission to confirm clearly that Indian Tribes shall receive the same treatment accorded to entrepreneur's block bidders that are both minority-owned enterprises and small businesses. Small business treatment for Indian Tribes would recognize the historic limitations on Tribes' access to capital and the unique circumstances of the Tribes' forced economic aggregation. It would also be consistent with

SBA rules that exclude tribal concerns from affiliation coverage to account for the reality of these Tribes' economic background.<sup>3</sup> Finally, it would help to ensure that all businesses truly deserving of Commission assistance have an opportunity to participate in the provision of spectrum-based services.

Respectfully submitted,

  
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August 22, 1994

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<sup>3</sup>. See 13 C.F.R. § 121.401(b) (1994).