



California Association of Tribal Governments

- Big Lagoon Rancheria
- Big Pine Rancheria
- Big Sandy Rancheria
- Cahuilla Band of Mission Indians of the Cahuilla Reservation
- Cher-Ae Heights Indian Community of the Trinidad Rancheria
- Cloverdale Rancheria of Pomo Indians
- Enterprise Rancheria of Maidu Indians of California
- Ewiiapaayp Band of Kumeyaay Indians
- Greenville Rancheria of Maidu Indians of California
- Habematolel Pomo of Upper Lake
- Hoopa Valley Tribe
- Hopland Band of Pomo Indians of the Hopland Reservation
- Ione Band of Miwok Indians of California
- Jamul Indian Village
- Karuk Tribe of California
- Kashia Band of Pomo Indians of the Stewarts Point Rancheria
- Los Coyotes Band of Cahuilla and Cupeno Indians
- Mesa Grande Band of Kumeyaay Indians
- Morongo Band of Mission Indians
- Northfork Rancheria of Mono Indians of California
- Pit Rive Tribe
- Ramona Band of Cahuilla Indians
- Resigini Rancheria
- Scotts Valley Rancheria Band of Pomo Indians of California
- Smith River Rancheria
- Soboba Band of Luiseno Indians
- Susanville Indian Rancheria
- Sycuan Band of the Kumeyaay Nation
- Washoe Tribes of California and Nevada
- Wiyot Tribe
- Yurok Tribe of the Yurok Reservation

September 22, 2010

Commission Secretary
Federal Communications Commission
445 12th Street, N.W., Room TW-A325
Washington, DC 20554

Re: WC Docket No. 09-197

FCC:

On behalf of the California Association of Tribal Governments (“CATG”), a tribal-chartered non-profit association of 31 tribal governments in the State of California, I am writing to express the Tribe’s support for the Standing Rock Telecommunications, Inc. (“SRTI”, wholly owned by the Standing Rock Sioux Tribe) filings in WC Docket No. 09-197. The CATG expressly supports the following filings/comments of the SRTI that seek decisions from the Federal Communications Commission (“Commission”), in this matter as well as in all Tribal matters before the Commission, that recognizes Tribal sovereignty in all its decisions. Accordingly, the Commission through its decisions should support the following policies:

- a. every Tribe has the right to service its entire reservation, and
- b. the Commission should not request state consent for decisions wholly contained within a reservation.

The CATG supports the SRTI position and respectfully disagrees with the Commission decision that the FCC must obtain state agreement regarding the redefinition of study areas to wholly on Tribal lands. Such action is inconsistent with the Commission’s *Indian Policy Statement*, the “public interest,” and Section 214(e)(6) as applied to Tribal lands. Commission regulation, 47 CFR 54.207(d), as cited by the SDPUC in its comments, precedes the enactment of Section 214(e)(6), and as such is inapplicable to petitions on Tribal lands.

CATG recognizes and respects a State’s interest in the portion of the service areas and wire centers beyond a Tribe’s reservation; however, the CATG strongly disagrees that any FCC decision, and in particular with the decision in the matter of SRTI, with regard to the service areas solely on SRTI’s lands must “not take affect until both the state commission and the Commission agree upon the definition of a rural service area.” It is not in



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the “public interest” to give a state commission what essentially is a “veto” authority over a Tribe’s ability to provide services within its own lands, particularly when Congress acted to clearly define a “streamlined” federal process for Tribal lands. Precedent is not required for the Commission to designate SRTI’s as an ETC throughout its licensed area within the boundaries of the Standing Rock Reservation. To do otherwise is inconsistent with the *Twelfth Report and Order* and the *FCC Indian Policy Statement*.

There is no statute prohibiting the grant of ETC status for serving areas smaller than the boundaries of the wire center level, and strict interpretation of any precedent or rules are not necessary. The Commission has clearly stated in its decision on the Mescalero Apache Tribe’s application to waive the definition of a study area, that “Commission rules may be waived for good cause shown. ... [and] the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance ***inconsistent with the public interest.***”¹ Denying a Tribe the ability to effectively serve to its entire Nation is clearly “inconsistent with the public interest.” Additionally, the Commission has made clear that each petition for redefinition of a study area is a “case-specific analysis.”²

The CATG requests the Commission revise its decision in accordance with the SRTI requests in the matter of WC Docket No. 09-197.

Should you have any questions, please contact the CATG Executive Director, Mr. Will Micklin at 619-368-4382 or by email at wmicklin@leaningrock.net. Thank you.

Sincerely,

Mark Romero, Chairman
CATG Board of Directors

¹ *Mescalero Apache, et al, Joint Petition for Waiver of the Definition of “Study Area” Contained in the Part 36, Appendix-Glossary of the Commission’s Rules*. CC Docket No 96-45, DA 01-129, at Para 7. (2001) Citing 47 C.F.R. s13 and *WAIT Radio v FCC*, 418 F.2d 1153, 1159 (D.C. Cir 1969), *cert. denied*, 409 U.S. 1027 (1972) (emphasis added)

² *Joint Board on Universal Service*, 20 F.C.C.R. 6371 at Para. 75.