Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Universal Service Reform	)	WT Docket No. 10-208
	)	
Mobility Fund	)	

To: The Commission

REPLY COMMENTS OF THE NAVAJO NATION
TELECOMMUNICATIONS REGULATORY COMMISSION

The Navajo Nation Telecommunications Regulatory Commission ("NNTRC") respectfully submits these Reply Comments in response to the above-referenced Notice of Proposed Rulemaking ("*NPRM*").[1]

Pursuant to Navajo Nation statute, NNTRC has jurisdiction over telecommunications services and service providers on the Navajo Nation, and has explicit authority to represent the Navajo Nation in all matters before the FCC. With these Reply Comments, NNTRC supports the Joint Comments and Reply Comments of Native Public Media and the National Congress of American Indians.

As the largest Native American Tribe, both in terms of area and population, the Navajo Nation knows all too well the challenges of delivering telecommunications services to its people. The Navajo are a resourceful and unique people, whose communications skills are legendary.

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[1] *In the Matter of Universal Service Reform, Mobility Fund, Notice of Proposed Rule Making*, (*"Mobility Fund NPRM"*), FCC 10-182, released October 14, 2010. The NPRM called for reply comments to be filed 75 days after publication in the Federal Register. The *Mobility Fund NPRM* appeared in the Federal Register on November 1, 2010. 75 Fed. Reg. 67060 (November 1, 2010). The 75th day fell on a weekend and then a federal holiday; thus these Reply Comments are being timely filed on the next business day for the Commission.

The Navajo Code Talkers drew upon the complexity of the Navajo language during World War II to provide encoded messaging services for all of the major surges in the Pacific Campaign. Yet on the Navajo Nation, access to the 21st Century version of encoded messaging – digital communication on the Internet – remains substandard. Telephone access in much of Navajo Country is less than broadband penetration in the rest of the United States, and residential broadband adoption across the Navajo Nation is nearly non-existent outside of a few pockets in some of the larger Navajo communities. This disparity in access to the "information age" reflects deeper economic and social inequalities. The Navajo people suffer from disproportionately high rates of poverty and unemployment, low levels of formal education and increased risk of disease and infant mortality. Lack of education, poverty, unemployment, and ill health drain governmental resources universally whether for County, State, Federal, or Tribal entities.

Nationally, Native Americans remain the poorest minority group in the United States. The poverty rate is 25.9% compared to the national rate of 11.3%. Unemployment in Navajo Country exceeds 40%. Associated with poverty are poor health conditions, lack of affordable housing, substandard education, a critical lack of jobs and a host of other barriers that keep most Native American communities isolated and economically distressed.

The Commission's proposed Mobility Fund, and specifically its proposal to set aside a portion of the Mobility Fund for service to Tribal Lands, provides a unique opportunity to close a portion of the "Digital Divide." Adoption of a "Reverse Auction" would squander that opportunity. Rewarding existing carriers who request the least amount of support would deprive the Navajo Nation from receiving any appreciable benefits from the Mobility Fund. Roughly the

size of South Carolina or West Virginia, both considered relatively rural states, the Navajo Nation has less than one-tenth the population of either, as evidenced in the table below.

Table 1	Navajo Nation	South Carolina	West Virginia
Size (miles squared)	26,111	31,117	24,231
Population (in area)	~180,000	4,321,249	1,818,470
Pop per square mile	6.9	139	75

With fewer than seven persons per square mile, the Navajo Nation would surely lose out under any scheme that favors those who seek the least amount of support per user. To prevent that result, NNTRC supports the call from NPM and NCAI (as well as those from Gila River Telecommunications, Inc. and the National Tribal Telecommunications Association) for a set-aside of a portion of the Mobility Fund to serve Tribal Lands.

NNTRC does not support the use of a reverse auction, even within this Tribal Mobility Fund. A reverse auction, inherently based on profit/loss economics, will not benefit the Navajo Nation. Instead, the FCC should consult government-to-government with the Navajo Nation, through the NNTRC, to identify the telecommunication needs of Navajo and develop a deployment strategy that is "Tribal-centric." Such a strategy would deliver service to Navajo anchor institutions such as government buildings, schools, libraries, and the centers of community life on the Navajo Nation, the Navajo Chapter Houses. NNTRC urges the FCC to require carriers to market their services to Tribal members and to provide customer service in a manner that respects Tribal sovereignty and Tribal culture.

NNTRC also supports recommendations of NPM and NCAI concerning collocation requirements for the Mobility Fund. Because of the complex and sometimes lengthy right-of-way issues on Tribal lands, towers are vital resources to the Navajo. Those who use Mobility

Fund grants for towers on Navajo lands should be required to make space available at commercially reasonable rates to other users.

Finally, NNTRC supports the NPM and NCAI recommendation that the FCC identify spectrum that is licensed, but underutilized, on Tribal lands. The FCC should undertake an audit of spectrum use on and near Tribal lands, and where warehousing or using Tribal lands as buffer zones is found, should reclaim that spectrum and relicense it to an entity committed to serving Tribal lands.[2] As stated in the NPM/NCAI Joint Comments, an applicant seeking funding from the Tribal Mobility Fund should demonstrate that Tribal governments have been consulted and engaged in the planning process and that the service proposed will advance goals established by the Tribe. Preferences in the Tribal Mobility Fund should be given to carriers that will serve all or most of the population of any Tribal lands and to applicants that propose service to Tribal anchor institutions, rather than solely to residential or business users.

Respectfully submitted,

NAVAJO NATION TELECOMMUNICATIONS REGULATORY COMMISSION

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[2] *See* Comments of National Tribal Telecommunications Assoc., p. 4 ("The FCC should also require partitioning and disaggregation of spectrum for use by a Native community when licensees have failed to build out in Native Unserved Areas").