

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

In the Matter of)
)
Improving Communications Services for) WT Docket No. 11-40
Native Nations by Promoting Greater)
Utilization of Spectrum over Tribal Lands)

REPLY COMMENTS of COMMNET WIRELESS, LLC

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SUMMARY

Commnet commends the Commission for its ongoing efforts to improve the availability of mobile voice and broadband services in Tribal areas, and supports initiatives proposed in this rulemaking proceeding that will enhance the availability and efficient use of spectrum in Tribal lands. Commnet has a keen interest in these initiatives because it is actively involved in collaborating with Tribal organizations to improve the level of access to affordable and high-quality mobile services in Tribal communities.

Commnet disagrees with commenters who express concerns regarding two prescriptive mandates—good faith negotiations and build-or-divest requirements—proposed by the Commission. Neither of these proposals is premature. It is time for the Commission to focus on aggressive steps to make more spectrum available for service providers that will expeditiously use the spectrum to expand access to mobile services in Tribal communities.

Commnet is reluctant to join commenters who support the Commission's proposed Tribal lands construction requirement safe harbor mechanism. Although Commnet endorses the Commission's objectives, it is concerned that a safe harbor mechanism could backfire by providing unintended advantages to wireless service providers whose business plans do not focus on utilizing spectrum to expand access to services in Tribal communities. To address these concerns, Commnet suggests ways in which the Commission could tailor a safe harbor mechanism to avoid these potential pitfalls.

Finally, Commnet notes that the Commission is also currently engaged in two other important proceedings—the Mobility Fund and Connect America Fund rulemakings—that present opportunities to advance further the Commission's goals to promote access to wireless radio and other communications services in Tribal areas. Commnet urges the Commission to seize the op-

portunity presented by these proceedings to increase the levels of funding targeted for the deployment of mobile networks and the provision of both mobile voice and mobile broadband services in Tribal communities. The Mobility Fund and CAF proceedings, together with this proceeding, provide the Commission with an opportunity to develop coordinated and complementary solutions to improve access to wireless services in Tribal communities.

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Commnet Wireless, LLC (“Commnet”),¹ by counsel, hereby submits these Reply Comments pursuant to the Commission’s Notice of Proposed Rulemaking in the above-captioned proceeding.²

Commnet is the Nation’s leading Commercial Mobile Radio Service (“CMRS”) carrier’s carrier. Its network comprises over 600 base stations that provide service to millions of end users who pass through or live in remote areas—customers that would otherwise be without voice and data service. Commnet operates both CDMA and GSM systems, enabling large and mid-size CMRS carriers to add areas within Commnet’s coverage footprint to their own coverage areas.³

Commnet concentrates its operations principally in remote and rural areas throughout the United States, including Tribal lands located in Arizona, Colorado, Nevada, New Mexico, and

¹ Commnet is a wholly owned operating subsidiary of Atlantic Tele-Network, Inc. (“ATN”). ATN subsidiaries provide telecommunications services to rural, niche, and other under-served markets and geographies, both domestically and internationally.

² *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, WT Docket No. 11-40, Notice of Proposed Rulemaking, 26 FCC Rcd 2623 (2011) (“Notice”). Reply comments are due not later than June 20, 2011. FCC, *Wireless Telecommunications Bureau Announces Deadlines for Comments on Spectrum over Tribal Lands Notice of Proposed Rulemaking*, WT Docket No. 11-40, Public Notice, DA 11-604 (rel. Apr. 4, 2011), at 1.

³ See Commnet Comments, WT Docket No. 10-112 (filed Aug. 6, 2010) at 2.

Utah. Commnet's operations enable retail carriers served by Commnet to ensure quality mobile voice and broadband services to their customers roaming in these remote areas. Commnet's core focus is to maintain and improve the quality and features of wireless services, including improving mobile broadband, that subscribers, including those on Tribal lands, have come to expect and even require. Commnet is actively engaged in working with its partners to provide service to remote and rural areas, including Internet access, roaming services, and point-to-point connectivity. In bringing wireless services to Tribal communities, Commnet's policy has been to work with local Tribal organizations and Tribal governments in developing projects that are targeted to meet community needs identified by these Tribal entities.⁴

I. INTRODUCTION.

The Commission has consistently sought to improve the quality of life for residents on Tribal lands throughout the Nation, by designing and implementing a range of programs and initiatives "intended to promote access to wireless radio and other communications services in Tribal areas."⁵ Commnet joins other commenters in this proceeding in endorsing the Commission's efforts,⁶ and also supports the view expressed by the National Tribal Telecommunications Association ("NTTA") that the Commission should endeavor "to provide parity of technology and service to Native communities."⁷

The urgent need for Commission action to promote the availability of affordable mobile telecommunications and broadband services in Tribal communities is underscored by the fact

⁴ Commnet's efforts to work with Tribal authorities and organizations to bring service to Tribal communities are discussed further in Section II.A., *infra*.

⁵ *Notice*, 26 FCC Rcd at 2626 (para. 5).

⁶ *See, e.g.*, CTIA–The Wireless Association® ("CTIA") Comments at 1; Globalstar, Inc., Comments at 1; Verizon Wireless ("Verizon") Comments at 1.

⁷ NTTA Comments at 3 (unpaginated).

that “Native communities are the worst-served in the United States, with an average service rate twenty to thirty-five percent below non-tribal communities.”⁸ This lack of service has serious implications: “What this means is twenty to thirty five percent of Native Americans, including nearly 50 percent of Navajos, lack the ability to call 911 for help.”⁹

The proposals made by the Commission in the *Notice*, aimed at “promoting greater use of spectrum over Tribal lands[,]”¹⁰ point the way to various steps the Commission could take to facilitate improved access to wireless services in Tribal communities. Before turning to these proposals, however, Commnet urges the Commission not to make decisions in this docket in a vacuum. Other pending proceedings, which have the potential to play a key role in bringing mobile broadband to Tribal areas, provide the Commission with an opportunity to take a holistic approach to solving the communications problems faced by Tribal communities. These proceedings make it possible for the Commission to make more spectrum available for use in Tribal areas while also ensuring that funding resources are allocated for use by service providers seeking to bring mobile voice and mobile broadband services to Tribal lands.

Specifically, the Commission has recognized in its Connect America Fund (“CAF”) rulemaking proceeding that “Tribal areas may need explicit support to maintain service because

⁸ NTTA Comments, WC Docket No. 10-90, *et al.* (filed Apr. 18, 2011) (“NTTA April 2011 Comments”) at 11-12. *See Notice*, 26 FCC Rcd at 2624-25 (para. 3) (footnote omitted) (stating that connectivity in many Tribal areas “remains at significantly lower levels” than in other areas, and that “[e]stimates indicate that 80% of the overall population on Tribal lands is covered by current generation (3G) wireless technologies, which permit mobile voice and internet services, compared to nationwide coverage of over 98%”); CTIA Comments at 2-3 (noting that access to communications services in Tribal areas “lags behind national levels”); NTTA Comments at 2.

⁹ NTTA April 2011 Comments at 12.

¹⁰ *Notice*, 26 FCC Rcd at 2624 (para. 1).

there may be no private business case to serve such areas.”¹¹ Commnet encourages the Commission to take actions in the CAF rulemaking that will accurately target sufficient levels of CAF support to mobile wireless carriers seeking to serve Tribal areas. Doing so, in tandem with facilitating greater use of spectrum in Tribal areas, will help to provide parity to Tribal communities with regard to the availability of affordable mobile voice and broadband services.

In addition, the Commission has proposed to establish a Mobility Fund to provide one-time support for the deployment of current generation or better mobile wireless services in areas in which such services currently are not available.¹² To the extent the Mobility Fund serves as a test bed for expediting the deployment of mobile broadband networks, Commnet encourages the Commission to explore alternative means for stimulating and funding the deployment of these networks in Tribal areas. For example, Commnet favors the reservation of some Mobility Fund support for purposes of developing a funding program that is separately targeted for Tribal areas, as discussed in the *Mobility Fund Notice*.¹³

Because both CAF and Mobility Fund support will be critical in facilitating, and providing incentives for, mobile broadband network deployment in Tribal areas, Commnet urges the

¹¹ *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, 4702 (para. 492) (2011). The Commission has also acknowledged in this proceeding that “funding is a critical problem for deployment of infrastructure on Tribal lands where often there is no private sector business case for such deployment.” *Notice*, 26 FCC Rcd at 2629 (para. 15) (footnote omitted).

¹² *See Universal Service Reform, Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking, 25 FCC Rcd 14716 (2010) (“*Mobility Fund Notice*”).

¹³ *Id.* at 14727 (para. 33). The Commission also has recently sought “comment on ways to afford Tribal governments an opportunity to identify their own priorities” *Further Inquiry into Tribal Issues Relating to Establishment of a Mobility Fund*, WT Docket No. 10-208, Public Notice, 26 FCC Rcd 5997, 5998 (para. 3) (2011).

Commission to increase, to the extent practicable, the levels of funding targeted for the deployment of infrastructure and the provision of both voice and broadband services in Tribal communities. In any event, Commnet would oppose the adoption of any Commission policies or mechanisms that would have the effect of reducing the level of universal service support for infrastructure deployment and the provision of mobile services in Tribal communities.

II. DISCUSSION.

Commnet encourages the Commission to adopt good faith negotiation requirements and “build-or-divest” rules as an effective means of promoting the availability and efficient use of spectrum in Tribal areas. In addition, while Commnet has concerns regarding the Commission’s proposal to use facility construction safe harbors as a means of providing incentives for the deployment of wireless infrastructure to serve Tribal communities, a properly structured safe harbor mechanism could improve service to Tribal communities while avoiding the creation of unintended and unwarranted advantages to carriers that do not give any priority to bringing service to these communities.

A. The Commission Should Adopt Prescriptive Mandates Regarding the Use of Spectrum in Tribal Areas.

Commnet believes that certain prescriptive measures provide the most promising opportunities for promoting the efficient use of spectrum in Tribal areas. Commnet, and similarly-situated entities, have used such measures effectively in the past to deploy networks that bring mobile voice and broadband services to Tribal communities.

These services are urgently needed. Although the Commission has sought to improve access to communications services in Tribal communities,¹⁴ the Commission also has acknowl-

¹⁴ See Notice, 26 FCC Rcd at 2626-27 (paras. 5-8).

edged that, despite these efforts, “our deep concern about the lack of wireless services on Tribal lands requires us to develop new mechanisms to foster increased access to wireless services for members of Tribes and other residents of underserved Tribal lands.”¹⁵

These new mechanisms should include prescriptive mandates that, even in the absence of voluntary, incentive-based measures, are geared to improve the efficient use of spectrum and, even more important, also to ensure greater availability of spectrum for use by service providers that are committed to bringing mobile services to Tribal communities. Given the ongoing deprivations faced by these communities regarding the lack of access to mobile voice and broadband services, the time for more aggressive action by the Commission is now. Commnet disagrees with commenters who suggest that prescriptive requirements would be premature,¹⁶ because, while properly designed incentive-based mechanisms could be helpful, the urgency of this issue in Tribal communities warrants immediate efforts by the Commission to “jump start” greater spectrum availability in Tribal areas.

One approach the Commission discusses in the *Notice* is the possibility of creating a formal negotiation process “that would enable a qualifying Tribal entity to require a licensee to enter into good faith negotiations regarding a secondary markets transaction with respect to any geographic portion of the licensee’s license area that is covered by unserved or underserved Tribal lands.”¹⁷ The proposed process would enable leveraging of “secondary market opportunities

¹⁵ *Id.* at 2627 (para. 9).

¹⁶ See CTIA Comments at 8; Verizon Comments at 1, 5.

¹⁷ *Notice*, 26 FCC Rcd at 2639 (para. 47). The Commission has engaged in efforts to pursue policies “for facilitating secondary markets for radio spectrum that will allow and encourage licensees to make all or portions of their assigned frequencies and/or service areas available to other entities and uses.” *Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, Policy Statement, 15 FCC Rcd 24178, 24178 (para. 1) (2000).

[that] could involve leasing all or part of a licensee’s spectrum rights or partitioning a geographic portion of a license for assignment to another entity.”¹⁸ Another approach the Commission discusses in the *Notice* is the adoption of a “build-or-divest” process whereby “a qualifying Tribal entity could require a licensee to build or divest a geographic area covering unserved or underserved Tribal lands within its license area.”¹⁹

Commnet agrees that both of these proposals involve “processes that could provide new opportunities for Tribal access to spectrum for fixed and mobile wireless services that is licensed to third parties.”²⁰ The good faith negotiation proposal could solve a perennial and pervasive problem faced by Tribal authorities: Numerous and ongoing difficulties are encountered by Tribal governments in initiating and completing negotiations for “securing access to spectrum rights held by existing wireless licensees whose licenses cover Tribal land areas”²¹ but whose primary focus in utilizing their licensed spectrum may be outside the boundaries of the Tribal lands located in these licensees’ services areas.

In cases in which such licensees are not utilizing their spectrum to bring mobile wireless services to Tribal communities, requiring good faith negotiations to enable Tribal entities to secure access to spectrum rights (through license partitioning or through spectrum leasing²²) is a

¹⁸ *Notice*, 26 FCC Rcd at 2639 (para. 46).

¹⁹ *Id.* at 2640 (para. 53) (footnote omitted). Both the good faith negotiation proposal and the build-or-divest proposal have been presented to the Commission by Tribal representatives. *See id.* at 2638 (para. 42), 2640 (para. 53 & n.87).

²⁰ *Id.* at 2638 (para. 42).

²¹ *Id.* at 2638 (para. 45).

²² *Id.* at 2639 (para. 46). The Commission explains that:

These secondary market opportunities could involve leasing all or part of a licensee’s spectrum rights or partitioning a geographic portion of a license for assignment to another entity. Robust and efficient secondary markets increase the availability of unused or un-

logical step for the Commission to take. A negotiation mandate would finally help to clear an effective path toward greater availability of spectrum for use in Tribal communities.

Similarly, the Commission's build-or-divest proposal would seek to "to provide Tribal governments with a process under which they could expedite service to their Tribal lands"²³ in cases in which "an existing licensee has satisfied the applicable construction requirements for the license *yet Tribal land areas remain unserved or underserved . . .*"²⁴ There is reason to be concerned that licensees holding spectrum for service areas that include Tribal lands may simply engage in "warehousing [the spectrum] or using Tribal lands as buffer zones[,]"²⁵ instead of using the spectrum to serve these Tribal areas. A mandatory build-or-divest requirement would provide a mechanism for curbing these practices by giving Tribal authorities a vehicle to ensure that the spectrum involved can be made available for use by service providers that will bring communications services to Tribal areas.

Wireless providers that choose to work collaboratively with Tribal authorities in utilizing the carriers' spectrum to serve Tribal communities have opportunities to do so under the Commission's current rules. In fact, Commnet has done just that to great positive effect and benefit to the Tribal communities it serves. As the following examples illustrate, Commnet has been extensively involved in collaborating with Tribal entities to bring mobile voice and broadband services to Tribal communities.

needed spectrum capacity and may enable new users to deploy services where, for a number of possible reasons, the original licensee did not.

Id.

²³ *Id.* at 2640 (para. 53).

²⁴ *Id.* (emphasis added).

²⁵ Navajo Nation Telecommunications Regulatory Commission Reply Comments, WT Docket No. 10-208 (filed Jan. 18, 2011) at 4.

- Commnet provides mobile wireless voice and data services (through roaming arrangements) to Tohono O’odham, San Carlos Apache, Hopi, Mescalero Apache, and Navajo Nation.²⁶

- Commnet has entered into a joint venture arrangement with NTUA to deliver 3G wireless cellular service and 4G broadband service to residents of the Navajo Nation. This project, which will provide both fiber middle-mile and wireless last-mile service, is funded in part by a broadband grant to NTUA from the U.S. Department of Commerce under the American Reinvestment and Recovery Act of 2009,²⁷ and will serve the interests of the Navajo Nation both through the advanced services that will be deployed as well as the majority-ownership stake of the Navajo.²⁸

- Commnet also has plans this year (1) to construct tower facilities for telemedicine services and wireless coverage for the Kaibab Band of Paiute Indians in Arizona; and (2) to work through the Indian Health Board of Nevada to provide connectivity from Reno to twenty-three bands of Shoshone-Paiute Indians remotely located across the state.

Notwithstanding these efforts by Commnet (and similar undertakings by other carriers that focus on bringing wireless services to Tribal areas), the fact remains that carriers choosing a

²⁶ Commnet has partnership agreements with the Navajo Tribal Utility Authority (“NTUA”), San Carlos Apache Telecom Utility, Inc., and Hopi Telecommunications Inc. Commnet also has strategic leasehold agreements with the Tohono O’odham Utility Authority and Mescalero Apache Telecom, Inc. Each of these entities is a utility wholly owned by a Tribal organization.

²⁷ Pub. L. No. 111-5 (“ARRA”).

²⁸ The project “will benefit the people of Navajo Nation [by] deliver[ing] the advanced telecommunications services that are vital for ensuring economic equality and opportunity[,] [a]nd[,] . . . because it is majority Navajo-owned, its success will directly benefit the Navajo people.” ATN, “Navajo Tribal Utility Authority and Atlantic Tele-Network Announce Partnership To Deliver Rural 4G Service,” Press Release (Apr. 4, 2011) at 1 (quoting Navajo Nation President Ben Shelly) (internal quotation marks omitted) (accessed at http://files.shareholder.com/downloads/ABEA-2WOFJF/1214121724x0x456439/8481370d-a902-4ecc-924c-1a0a7fd92f37/ATNI_News_2011_4_4_General_Releases.pdf). Commnet will contribute wireless equipment, assets, and management and operational expertise to support the project. *Id.* at 1-2. The project is one of only a few public-private partnerships funded under ARRA that include provision of both fiber and wireless service.

different course (*e.g.*, spectrum warehousing or using Tribal areas as buffer zones) generally can follow that course in an unfettered manner under the Commission's current rules. It is this latter course, taken by some wireless licensees, that has hindered further expansion into Tribal areas by Commnet and similarly-situated entities.

Although CTIA is concerned about prescriptive mandates that “may serve to undermine secondary market opportunities[,]”²⁹ Commnet's experience is that the Commission's current rules have not succeeded in creating secondary markets sufficient to make spectrum available for wireless services to Tribal communities. The Commission can solve this problem by adopting mandates that could produce viable secondary markets to serve as vehicles for making spectrum available for such services.

Commnet therefore disagrees with CTIA's argument that these proposals for prescriptive mandates could be counter-productive because they would create adversarial relationships between Tribal authorities and wireless providers.³⁰ Carriers that currently are warehousing spectrum (or using spectrum in Tribal lands as buffer zones) are, in effect, already in an adversarial relationship with Tribal authorities, and these carriers hold all the cards under the Commission's current rules. Prescriptive mandates, by correcting this imbalance, would provide Tribal areas with “[g]reater access to wireless services [that] would offer members of Tribes and others on Tribal lands significant economic opportunities and increased social benefits.”³¹

²⁹ CTIA Comments at 8.

³⁰ *See id.*

³¹ *Notice*, 26 FCC Rcd at 2624 (para. 1).

B. Properly Structured Construction Requirement Safe Harbors Could Offer Incentives To Encourage Deployment of Mobile Wireless Services in Tribal Areas.

The Commission proposes to adopt a Tribal lands construction safe harbor, under which “a licensee that provides a specified level of service to the Tribal land areas within the geographic area of its license would be deemed to have met its construction obligations for its entire service area.”³²

Commnet is reluctant to support this proposed incentive-based mechanism, for three reasons. *First*, as Commnet has discussed in the previous section, prescriptive mandates offer a more direct and effective means of “jump starting” spectrum availability, and efficient use of spectrum in Tribal communities.

Second, as Commnet also has demonstrated, incentive-based mechanisms are not needed as an interim measure because there is no basis for arguing that the adoption of prescriptive requirements would be premature. There is ample evidence that Tribal communities are woefully lacking in access to wireless services, and that the Commission’s current policies have not been successful in reversing the *status quo*.

And, *third*, a safe harbor mechanism could produce unintended results that would bring no benefits to Tribal communities but would further entrench the spectrum holdings of, and would provide competitive advantages to, service providers whose business plans give little attention to the needs of these communities.

With regard to Commnet’s third concern, if a safe harbor mechanism were not designed properly, a wireless licensee could utilize the mechanism to engage in a minimal degree of network deployment to serve Tribal areas, use this minimal build-out as a means of complying with

³² *Id.* at 2643 (para. 64).

the build-out obligations applicable to its overall service area, keep its focus on a business plan aimed at the non-Tribal portions of its service area, and walk away from any significant effort to deploy mobile voice and broadband services in Tribal communities.

In Commnet's view, the Commission would be ill-advised to run such risks, especially since its proposals for prescriptive mandates offer a surer means of achieving its goal of improving the availability and efficient use of spectrum in Tribal areas. Commnet would also suggest that the Commission should couple its use of prescriptive requirements with the consideration of other innovative approaches to making additional spectrum available for Tribal lands, such as setting aside specific licenses with service areas that encompass only Tribal lands.

Notwithstanding these concerns, if the Commission opts to use a safe harbor mechanism based on a geographic coverage requirement, then it should select a coverage level that is meaningful and achievable, but that does not provide the licensee seeking the safe harbor with any competitive advantage over other wireless carriers already providing service in the service area involved. An effective way to achieve these dual objectives (*i.e.*, a safe harbor that provides proper incentives for deployment in Tribal areas, but that also is competitively neutral), would be to provide a safe harbor if the licensee deploys coverage that is the greater of: (1) a set percentage—such as 75 percent, for example—of the total geographic area of the Tribal lands within the licensee's overall service area;³³ or (2) the percentage of coverage that has been achieved by any wireless carrier that is already providing service in the Tribal area involved at the time a licensee seeks the safe harbor.

³³ The Commission has sought comment on setting this coverage level at 75 percent. *Id.* at 2643 (para. 66).

The second prong of this suggested two-part safe harbor test is important because, without it, a new entrant could obtain a competitive advantage over the incumbent wireless carrier by utilizing the Tribal lands safe harbor to satisfy the overall build-out requirement while actually providing coverage in the overall service area that is potentially far less than (1) the coverage provided by the incumbent carrier; and (2) the coverage otherwise required by the Commission's rules but for the safe harbor. The incumbent wireless carrier, of course, would not have had the opportunity to utilize the safe harbor, if its deployment in the service area involved was carried out prior to adoption of the safe harbor rule.

CTIA has also suggested that the Commission should consider "includ[ing] a population-based alternative, which would provide an incentive to deploy service on Tribal lands with broad geographic areas but whose populations are concentrated in a few pockets."³⁴ Commnet suggests that, if the Commission were to establish a population-based safe harbor (instead of a geographic-based safe harbor, or as an alternative that a licensee may select), then the population-based test should include the coverage requirement described above.

Thus, if a wireless carrier is already providing service in the Tribal area involved, then the licensee seeking to qualify for the safe harbor must provide a percentage of population coverage in that Tribal area that is at least equal to the percentage of population coverage already provided by the existing carrier (if that percentage is higher than the coverage percentage that would otherwise apply under the safe harbor rule).

In addition to this competitive safeguard, an additional safeguard for the safe harbor mechanism also would be advisable. The Commission has pointed to the possibility that licensees

³⁴ CTIA Comments at 6.

would seek to “exploit[] the safe harbor[,]”³⁵ presumably by using the safe harbor to satisfy construction requirements for a large overall service area by constructing facilities in a relatively small Tribal area within that service area.³⁶ Such a strategy could be prevented, however, by providing that a Tribal area must have a minimum geographic size, or a minimum level of population, in order to qualify for a safe harbor.

III. CONCLUSION.

For the foregoing reasons, Commnet respectfully urges the Commission to adopt good faith negotiation requirements and a build-or-divest mandate because these prescriptive requirements will be effective in expanding the availability and efficient use of spectrum for bringing mobile services to Tribal areas.

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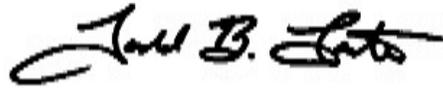
³⁵ *Notice*, 26 FCC Rcd at 2643 (para. 66).

³⁶ *See* Verizon Comments at 4 (arguing that “[t]he Commission should strive to avoid creating a safe harbor that permits a licensee to satisfy performance requirements for a large licensed area like an EA [Economic Area] or REAG [Regional Economic Area Grouping] by serving only a small Tribal area or population”).

Commnet is less convinced regarding the advisability of the Commission's establishing a safe harbor mechanism. If the Commission chooses to do so, however, it should include ample safeguards to prevent unintended consequences that would strengthen the spectrum holdings of, and provide competitive advantages to, carriers whose business plans do not sufficiently focus on bringing wireless services to Tribal communities.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Todd B. Lantor". The signature is fluid and cursive, with a large initial "T" and "L".

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