

<b>FCC Form 481 - Carrier Annual Reporting Data Collection Form</b>	<b>FCC Form 481</b> OMB Control No. 3060-0986/OMB Control No. 3060-0819 July 2013
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<010> Study Area Code	493403
<015> Study Area Name	SACRED WIND
<020> Program Year	2014
<030> Contact Name: Person USAC should contact with questions about this data	Kristi Ingram
<035> Contact Telephone Number: Number of the person identified in data line <030>	719-266-4334
<039> Contact Email Address: Email of the person identified in data line <030>	kingrum@tcatel.com

<b>ANNUAL REPORTING FOR ALL CARRIERS</b>	<b>54.313 Completion Required</b>	<b>54.422 Completion Required</b>
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<i>(check box when complete)</i>		
<100> Service Quality Improvement Reporting <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<200> Outage Reporting (voice) <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<210> <input checked="" type="checkbox"/> <-- check box if no outages to report		
<300> Unfulfilled Service Requests (voice) <span style="float: right;"><i>(attach descriptive document)</i></span>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<310>     Detail on Attempts (voice)	<input type="checkbox"/>	<input type="checkbox"/>
<320> Unfulfilled Service Requests (broadband) <span style="float: right;"><i>(attach descriptive document)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<330>     Detail on Attempts (broadband)	<input type="checkbox"/>	<input type="checkbox"/>
<400> Number of Complaints per 1,000 customers (voice)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<410>     Fixed <input style="width: 50px;" type="text" value="0.0"/>		
<420>     Mobile <input style="width: 50px;" type="text"/>		
<430> Number of Complaints per 1,000 customers (broadband)	<input type="checkbox"/>	<input type="checkbox"/>
<440>     Fixed <input style="width: 50px;" type="text"/>		
<450>     Mobile <input style="width: 50px;" type="text"/>		
<500> Service Quality Standards & Consumer Protection Rules Compliance <span style="float: right;"><i>(check to indicate certification)</i></span>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<510> <input style="width: 50px;" type="text" value="493403nm510"/> <span style="float: right;"><i>(attached descriptive document)</i></span>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<600> Functionality in Emergency Situations <span style="float: right;"><i>(check to indicate certification)</i></span>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<610> <input style="width: 50px;" type="text" value="493403nm610"/> <span style="float: right;"><i>(attached descriptive document)</i></span>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<700> Company Price Offerings (voice) <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<710> Company Price Offerings (broadband) <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<800> Operating Companies and Affiliates <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<900> Tribal Land Offerings (Y/N)? <input checked="" type="radio"/> <input type="radio"/> <span style="float: right;"><i>(if yes, complete attached worksheet)</i></span>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<1000> Voice Services Rate Comparability <span style="float: right;"><i>(check to indicate certification)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<1010> <input style="width: 50px;" type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>
<1100> Terrestrial Backhaul (Y/N)? <input checked="" type="radio"/> <input type="radio"/> <span style="float: right;"><i>(if not, check to indicate certification)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<1110> <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<1200> Terms and Condition for Lifeline Customers <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Price Cap Carriers, Proceed to Price Cap Additional Documentation Worksheet**

*Including Rate-of-Return Carriers affiliated with Price Cap Local Exchange Carriers*

<2000> <span style="float: right;"><i>(check to indicate certification)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>
<2005> <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input type="checkbox"/>	<input type="checkbox"/>

**Rate of Return Carriers, Proceed to ROR Additional Documentation Worksheet**

<3000> <span style="float: right;"><i>(check to indicate certification)</i></span>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<3005> <span style="float: right;"><i>(complete attached worksheet)</i></span>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>(100) Service Quality Improvement Reporting Data Collection Form</b>	FCC Form 481 OMB Control No. 3060-0986/OMB Control No. 3060-0819 July 2013
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<020> Program Year	2014
<030> Contact Name - Person USAC should contact regarding this data	Kristi Ingram
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<039> Contact Email Address - Email Address of person identified in data line <030>	kingrum@tcatel.com

<110> Has your company received its ETC certification from the FCC? If your answer to Line <110> is yes, do you have an existing §54.202(a) "5 year plan" filed with the FCC?	(yes / no)	<input type="radio"/>	<input checked="" type="radio"/>	
	(yes / no)	<input type="radio"/>	<input type="radio"/>	

If your answer to Line <111> is yes, then you are required to file a progress report, on line <112> delineating the status of your company's existing § 54.202(a) "5 year plan" on file with the FCC, as it relates to your provision of voice telephony service.

<112> Attach Five-Year Service Quality Improvement Plan or, in subsequent years, your annual progress report filed pursuant to 47 C.F.R. § 54.313(a)(1). If your company is a CETC which only receives frozen support, your progress report is only required to address voice telephony service.

Name of Attached Document (.pdf)

Please check these boxes below to confirm that the attached PDF, on line 112, contains a progress report on its five-year service quality improvement plan pursuant to § 54.202(a). The information shall be submitted at the wire center level or census block as appropriate.

- <113> Maps detailing progress towards meeting plan targets
- <114> Report how much universal service (USF) support was received
- <115> How (USF) was used to improve service quality
- <116> How (USF) was used to improve service coverage
- <117> How (USF) was used to improve service capacity
- <118> Provide an explanation of network improvement targets not met in the prior calendar year.










<b>(900) Tribal Lands Reporting Data Collection Form</b>	FCC Form 481 OMB Control No. 3060-0986/OMB Control No. 3060-0819 July 2013
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<910> Tribal Land(s) on which ETC Serves Navajo

<920> Tribal Government Engagement Obligation

493403nm920

Name of Attached Document (.pdf)

If your company serves Tribal lands, please select (Yes,No, NA) for each these boxes to confirm the status described on the attached PDF, on line 920, demonstrates coordination with the Tribal government pursuant to § 54.313(a)(9) includes:

- <921> Needs assessment and deployment planning with a focus on Tribal community anchor institutions;
- <922> Feasibility and sustainability planning;
- <923> Marketing services in a culturally sensitive manner;
- <924> Compliance with Rights of way processes
- <925> Compliance with Land Use permitting requirements
- <926> Compliance with Facilities Siting rules
- <927> Compliance with Environmental Review processes
- <928> Compliance with Cultural Preservation review processes
- <929> Compliance with Tribal Business and Licensing requirements.

Select (Yes,No, NA)
Yes
Yes

**(1100) No Terrestrial Backhaul Reporting  
Data Collection Form**

 FCC Form 481  
 OMB Control No. 3060-0986/OMB Control No. 3060-0819  
 July 2013

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<1120> Please check this box to confirm no terrestrial backhaul options exist within the supported area pursuant to § 54.313(G)

<1130> Please check this box to confirm the reporting carrier offers broadband service of at least 1 Mbps downstream and 256 kbps upstream within the supported area pursuant to § 54.313(G)

<b>(1200) Terms and Condition for Lifeline Customers</b> <b>Lifeline</b> <b>Data Collection Form</b>	FCC Form 481 OMB Control No. 3060-0986/OMB Control No. 3060-0819 July 2013
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<1210> Terms & Conditions of Voice Telephony Lifeline Plans 493403nm1210

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Name of attached document (.pdf)

<1220> Link to Public Website HTTP \_\_\_\_\_

“Please check these boxes below to confirm that the attached PDF, on line 1210, or the website listed, on line 1220, contains the required information pursuant to § 54.422(a)(2) annual reporting for ETCs receiving low-income support, carriers must annually report:

<1221> Information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers,

<1222> Details on the number of minutes provided as part of the plan,

<1223> Additional charges for toll calls, and rates for each such plan.

**(2000) Price Cap Carrier Additional Documentation**

FCC Form 481

**Data Collection Form**

OMB Control No. 3060-0986/OMB Control No. 3060-0819

*Including Rate-of-Return Carriers affiliated with Price Cap Local Exchange Carriers*

July 2013

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**CHECK the boxes below to note compliance as a recipient of Incremental Connect America Phase I support, frozen High Cost support, High Cost support to offset access charge reductions, and Connect America Phase II support as set forth in 47 CFR § 54.313(b),(c),(d),(e) the information reported on this form and in the documents attached below is accurate.**

**Incremental Connect America Phase I reporting**

<2010>	2nd Year Certification {47 CFR § 54.313(b)(1)}	<input type="checkbox"/>
<2011>	3rd Year Certification {47 CFR § 54.313(b)(2)}	<input type="checkbox"/>

**Price Cap Carrier Receiving Frozen Support Certification {47 CFR § 54.312(a)}**

<2012>	2013 Frozen Support Certification	<input type="checkbox"/>
<2013>	2014 Frozen Support Certification	<input type="checkbox"/>
<2014>	2015 Frozen Support Certification	<input type="checkbox"/>
<2015>	2016 and future Frozen Support Certification	<input type="checkbox"/>

**Price Cap Carrier Connect America ICC Support {47 CFR § 54.313(d)}**

<2016>	Certification Support Used to Build Broadband	<input type="checkbox"/>
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**Connect America Phase II Reporting {47 CFR § 54.313(e)}**

<2017>	3rd year Broadband Service Certification	<input type="checkbox"/>
<2018>	5th year Broadband Service Certification	<input type="checkbox"/>
<2019>	Interim Progress Certification	<input type="checkbox"/>
<2020>	Please check the box to confirm that the attached PDF , on line 2021, contains the required information pursuant to § 54.313 (e)(3)(ii), as a recipient of CAF Phase II support shall provide the number, names, and addresses of community anchor institutions to which began providing access to broadband service in the preceding calendar year.	<input type="checkbox"/>

<2021>	Interim Progress Community Anchor Institutions	Name of Attached Document Listing Required Information	<input type="checkbox"/>
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<b>(3000) Rate Of Return Carrier Additional Documentation</b>	FCC Form 481
<b>Data Collection Form</b>	OMB Control No. 3060-0986/OMB Control No. 3060-0819
	July 2013

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**CHECK the boxes below to note compliance on its five year service quality plan (pursuant to 47 CFR § 54.202(a)) and, for privately held carriers, ensuring compliance with the financial reporting requirements set forth in 47 CFR § 54.313(f)(2). I further certify that the information reported on this form and in the documents attached below is accurate.**

**Progress Report on 5 Year Plan**

<p>(3010) Milestone Certification {47 CFR § 54.313(f)(1)(i)} Please check this box to confirm that the attached PDF , on line 3012,</p>	Name of Attached Document Listing Required Information	<input type="checkbox"/>
<p>(3011) contains the required information pursuant to § 54.313 (f)(1)(ii), as a recipient of CAF Phase II support shall provide the number, names, and addresses of community anchor institutions to which began providing access to broadband service in the preceding calendar year.</p>		
<p>(3012) Community Anchor Institutions {47 CFR § 54.313(f)(1)(ii)}</p>	Name of Attached Document Listing Required Information	<input type="checkbox"/>
<p>(3013) Is your company a Privately Held ROR Carrier {47 CFR § 54.313(f)(2)}</p>		<input checked="" type="checkbox"/> (Yes/No)
<p>(3014) If yes, does your company file the RUS annual report Please check these boxes to confirm that the attached PDF, on line 3017, contains the required information pursuant to § 54.313(f)(2) compliance requires:</p>		<input checked="" type="checkbox"/> (Yes/No)
<p>(3015) Electronic copy of their annual RUS reports (Operating Report for Telecommunications Borrowers)</p>		<input checked="" type="checkbox"/>
<p>(3016) PDF of Balance Sheet, Income Statement and Statement of Cash Flows</p>		<input checked="" type="checkbox"/>
<p>(3017) If the response is yes on line 3014, attach your company's RUS annual report and all required documentation</p>	Name of Attached Document Listing Required Information	493403nm3017
<p>(3018) If the response is no on line 3014, Is your company audited?  If the response is yes on line 3018, please check the boxes below to confirm your submission, on line 3026 pursuant to § 54.313(f)(2), contains :</p>	Name of Attached Document Listing Required Information	<input type="checkbox"/> (Yes/No)
<p>(3019) Either a copy of their audited financial statement; or (2) a financial report in a format comparable to RUS Operating Report for Telecommunications</p>		<input type="checkbox"/>
<p>(3020) PDF of Balance Sheet, Income Statement and Statement of Cash Flows</p>		<input type="checkbox"/>
<p>(3021) Management letter issued by the independent certified public accountant that performed the company's financial audit.  If the response is no on line 3018, please check the boxes below to confirm your submission, on line 3026 pursuant to § 54.313(f)(2), contains:</p>		<input type="checkbox"/>
<p>(3022) Copy of their financial statement which has been subject to review by an independent certified public accountant; or 2) a financial report in a format comparable to RUS Operating Report for Telecommunications Borrowers,</p>		<input type="checkbox"/>
<p>(3023) Underlying information subjected to a review by an independent certified public accountant</p>		<input type="checkbox"/>
<p>(3024) Underlying information subjected to an officer certification.</p>		<input type="checkbox"/>
<p>(3025) PDF of Balance Sheet, Income Statement and Statement of Cash Flows</p>		<input type="checkbox"/>
<p>(3026) Attach the worksheet listing required information</p>	Name of Attached Document Listing Required Information	<input type="checkbox"/>

<b>Certification - Reporting Carrier Data Collection Form</b>	FCC Form 481 OMB Control No. 3060-0986/OMB Control No. 3060-0819 July 2013
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**TO BE COMPLETED BY THE REPORTING CARRIER, IF THE REPORTING CARRIER IS FILING ANNUAL REPORTING ON ITS OWN BEHALF:**

<b>Certification of Officer as to the Accuracy of the Data Reported for the Annual Reporting for CAF or LI Recipients</b>	
I certify that I am an officer of the reporting carrier; my responsibilities include ensuring the accuracy of the annual reporting requirements for universal service support recipients; and, to the best of my knowledge, the information reported on this form and in any attachments is accurate.	
Name of Reporting Carrier:	
Signature of Authorized Officer:	Date
Printed name of Authorized Officer:	
Title or position of Authorized Officer:	
Telephone number of Authorized Officer:	
Study Area Code of Reporting Carrier:	Filing Due Date for this form:
Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.	

<b>Certification - Agent / Carrier Data Collection Form</b>	FCC Form 481 OMB Control No. 3060-0986/OMB Control No. 3060-0819 July 2013
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<b>&lt;039&gt;</b>	Contact Email Address - Email Address of person identified in data line <030>	kingrum@tcatel.com

**TO BE COMPLETED BY THE REPORTING CARRIER, IF AN AGENT IS FILING ANNUAL REPORTS ON THE CARRIER'S BEHALF:**

Certification of Officer to Authorize an Agent to File Annual Reports for CAF or LI Recipients on Behalf of Reporting Carrier	
<p>I certify that (Name of Agent) <u>Kristi Ingram</u> is authorized to submit the information reported on behalf of the reporting carrier. I also certify that I am an officer of the reporting carrier; my responsibilities include ensuring the accuracy of the annual data reporting requirements provided to the authorized agent; and, to the best of my knowledge, the reports and data provided to the authorized agent is accurate.</p>	
Name of Authorized Agent:	Kristi Ingram
Name of Reporting Carrier:	SACRED WIND
Signature of Authorized Officer:	CERTIFIED ONLINE <span style="float: right;">Date: 10/03/2013</span>
Printed name of Authorized Officer:	John Badal
Title or position of Authorized Officer:	CEO
Telephone number of Authorized Officer:	505-821-5080
Study Area Code of Reporting Carrier:	493403 <span style="float: right;">Filing Due Date for this form: 10/15/2013</span>
<small>Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.</small>	

**TO BE COMPLETED BY THE AUTHORIZED AGENT:**

Certification of Agent Authorized to File Annual Reports for CAF or LI Recipients on Behalf of Reporting Carrier	
<p>I, as agent for the reporting carrier, certify that I am authorized to submit the annual reports for universal service support recipients on behalf of the reporting carrier; I have provided the data reported herein based on data provided by the reporting carrier; and, to the best of my knowledge, the information reported herein is accurate.</p>	
Name of Reporting Carrier:	SACRED WIND
Name of Authorized Agent or Employee of Agent:	TCA, Inc.
Signature of Authorized Agent or Employee of Agent:	CERTIFIED ONLINE <span style="float: right;">Date: 10/03/2013</span>
Printed name of Authorized Agent or Employee of Agent:	Kristi Ingram
Title or position of Authorized Agent or Employee of Agent:	Senior Financial Consultant
Telephone number of Authorized Agent or Employee of Agent:	719-266-4334
Study Area Code of Reporting Carrier:	493403 <span style="float: right;">Filing Due Date for this form: 10/15/2013</span>
<small>Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.</small>	

## Attachments



**Sacred Wind Communications, Inc.**  
**FCC Form 481**

**Line 510: Service Quality Standards & Consumer Protection Rules Compliance**

The company complies with the following consumer protection standards as enacted by the New Mexico Legislature, New Mexico Public Regulation Commission, and/or promulgated by the FCC and the Federal Trade Commission:

- FCC rules regarding verification of orders for telecommunications service as required of submitting carriers {47 CFR §64.1100}
- The FCC's Truth-in-Billing Requirements {47 CFR §64.2400}
- All of the requirements of 47 C.F.R. § Part 64 Subpart U, Customer Proprietary Network Information and Federal Trade Commission 16 C.F.R. §681, Identity Theft Red Flags
- The statutory prohibitions against slamming and cramming contained in NMSA 1978, § 93-9G-1 through and including 93-9G-9
- New Mexico Public Regulation Commission's service quality and consumer protection regulations applicable to rural telecommunications companies

**Sacred Wind Communications, Inc.**  
**FCC Form 481**

**Line 610: Functionality in Emergency Situations**

- The company has made reasonable provisions to meet emergencies resulting from power failures; sudden and prolonged increases in traffic; staff shortages; and fire, storm, and acts of God. These provisions include, but are not limited to, installing adequate battery reserve capacity where needed, training personnel in appropriate emergency procedures and rerouting traffic around damaged facilities. {47 CFR §54.202(a)}



5901-J Wyoming Blvd NE, #266  
Albuquerque, NM 87109  
(505) 821-5080  
(505) 821-0226 fax

October 1, 2013

## **900 Tribal Lands Reporting**

Sacred Wind Communications, Inc. has open and ongoing discussions with the Navajo Nation government concerning the company's business concerns on Navajo land and is in full compliance with the FCC's 47 C.F.R 54.313(a)(9) regarding Tribal engagement.

The attached documents are representational examples of this engagement process: Sacred Wind's 2012 Tribal Engagement Listing; Sacred Wind form documenting a specific planning meeting with the Navajo President, et al, (July 11, 2012); the Navajo Nation's Certificate of Authority for Sacred Wind to legally do business on Navajo lands; *Sacred Wind Communications, Inc.'s Comments on the Navajo Nation Telecommunications Regulatory Commission's Notice of Proposed Rulemaking* (July 28, 2011) and *Sacred Wind Communications, Inc.'s Response to the Navajo Nation Telecommunications Regulatory Commission's Further Proposed Rulemaking for a Tiered Regulatory Approach* (August 27, 2012) display Sacred Wind's cooperation with Navajo regulatory processes; copy of an email from Sacred Wind's CEO to Brian Tagaban of the Navajo Nation concerning the Navajo's proposed Application for Certificate of Convenience and Necessity (January 17, 2012); and Sacred Wind's NPEA Policy Statement which was submitted to the Navajo Nation.

In addition, Sacred Wind Communications, Inc. provides copies of all pertinent Federal and State of New Mexico regulatory filings to the Navajo Nation Telecommunication Regulatory Commission (NNTRC).

DA 12-1165

Released: July 19, 2012

OFFICE OF NATIVE AFFAIRS AND POLICY,  
WIRELESS TELECOMMUNICATIONS BUREAU, AND  
WIRELINE COMPETITION BUREAU ISSUE FURTHER GUIDANCE ON  
TRIBAL GOVERNMENT ENGAGEMENT OBLIGATION PROVISIONS OF THE  
CONNECT AMERICA FUND

Tribal Outreach

The Commission therefore required, at a minimum, that ETCs demonstrate on an annual basis that they have meaningfully engaged with Tribal governments in their universal service supported areas.<sup>8</sup> At a minimum, the *USF/ICC Order* stated that such discussions must include: (1) a needs assessment and deployment planning with a focus on Tribal community anchor institutions; (2) feasibility and sustainability planning; (3) marketing services in a culturally sensitive manner; (4) rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and (5) compliance with Tribal business and licensing requirements.<sup>9</sup> Failure to satisfy the Tribal engagement obligation will subject ETCs to financial consequences, including potential reduction in universal service support should they fail to fulfill their engagement obligations.<sup>10</sup>

**Sacred Wind's 2012 Tribal Engagement**

Sacred Wind Communications, Inc. ("SWC") holds that its engagement with the Navajo Nation has been long lasting and genuine, unique among the industry. Its outreach to its tribal customers is tailored to not only be culturally sensitive, but culturally reinforcing. SWC provides to the Navajo Nation, particularly the Navajo Nation Telecommunications Regulatory Commission ("NNTRC"), timely information about its network plans, its customer outreach, pricing, and new services introduction. Navajo officials, including the Navajo Nation President, have attended blessing ceremonies for SWC facilities and ribbon cutting events. SWC is one of the few telecommunications companies operating on Navajo lands that has supported the Nation's authority to impose rules for a Certificate of Convenience and Necessity and for other forms of regulation. It is also one of the few telecommunications companies that has submitted to the Navajo Nation Office of Labor Relations an affirmative action plan for its employees. SWC meetings with Navajo Nation officials in 2012 are shown below:

<b>Meeting</b>	<b>Date</b>	<b>Topic</b>	<b>SWC Employee</b>
Huerfano Chapter VP	1/9/2012	Needs Assessment and Deployment Planning	T.Charlee
Navajo Land Dept. director	1/31/2012	Rights of Way and Other Permitting and Review Processes and Feasibility Planning	T.Charlee
NNTRC @ Tribal Telecom Conf.	2/2/12	Compliance with Tribal Business and	J. Badal

		Requirements	
Navajo Tribal councilman Simpson	2/8/2012	Rights of Way and Other Permitting and Review Processes and Feasibility Planning	T.Charlee
Navajo Nation IT Department director Skow	2/8/2012	Needs Assessment and Deployment Planning	T.Charlee
Eastern Navajo LGA Public Hearing in Crownpoint	2/13/2012	Needs Assessment and Deployment Planning Right of Way and Review Process	T.Charlee
Tohajiilee Chapter CULP Meeting	3/1/2012	Needs Assessments and Deployment Planning	T.Charlee
PRC Meeting in Torreon	3/2/2012	Needs Assessments and Deployment Planning	T.Charlee
Tohajiilee Chapter & Baca Chapter	3/6/2012	Needs Assessments and Deployment Planning	T.Charlee
Navajo Nation Land Department mgr Draper & Title and Appraiser R.Pine	3/28/2012	Right of Way and Other Permitting and Review Process	T.Charlee
Navajo Nation President & tribal council delegate Simpson	4/9/2012	Right of Way and Other Permitting and Review Process between SWC CEO	J.Badal et al
Navajo Nation Council in Session	4/16/2012	Tribal Infrastructure on Navajo Lands	T.Charlee
NNTRC Brian Tagaban	4/17/2012	Compliance with Tribal Business and Licensing Requirements	T.Charlee
Navajo Tribal Council delegate Simpson	4/24/2012	Compliance with Tribal Business and Licensing Requirements	T.Charlee
Tohajiilee Chapter Official and I.H.S. Official	4/25/2012	Needs Assessment and Deployment Planning	T.Charlee & Kim Kirk
Tohajiilee Chapter Planning Meeting	5/1/2012	Right of Way and Other Permitting and Review Process	T.Charlee

Red Rock Chapter President Haswood	5/2/2012	Needs Assessments and Deployment Planning	T.Charlee
Tribal Council member Simpson	5/6/2012	Rights of Way and Other Permitting and Review Processes	J. Badal
Navajo Tribal Council delegate Simpson & Eastern Navajo President Johnson	5/8/2012	Needs Assessments and Deployment Planning	T.Charlee
Navajo Eastern Agency officials	5/16/2012	Needs Assessment and Deployment Planning Rights of Way and Other Permitting and Review Processes	J. Badal et al
White Rock Chapter President Henry, Tribal Councilman Simpson & NNTRC Brian Tagaban	5/18/2012	Feasibility and Sustainability Planning	T.Charlee
Brian Tagaban, NNTRC @ ANMTA conf	5/30/2012	FCC CAF program Rights of Way and Other Permitting and Review Processes	J. Badal
Iyanbito Chapter President Shirley& McKinley County officials	5/30/2012	Needs Assessments and Deployment Planning	T.Charlee
Eastern Agency Meeting	6/2/2012	Right of Way and other Permitting and Review Process	T.Charlee
Eastern Land Dept. L. Rogers	6/7/2012	Right of Way and other Permitting and Review Process	T.Charlee
Navajo Office of Labor Relation brown bag session @ SWC Yatahey Office	6/21/2012	Compliance with Tribal Business and Requirements of Diné fundamental laws.	All Management
Navajo Department of Transportation P. Chaco	6/26/2012	Rights of Way and Other Permitting and Review Processes	T.Charlee
Council Delegates Simpson & Yazzie	7/2/2012	Feasibility and Sustainability Planning	Jon Landstrom et al
Navajo Nation	7/11/2012	Feasibility and	John Badal et al

President / Ben Shelly and NNTRC Executive Director Brian Tagaban		Sustainability Planning	
NMPRC & Council Delegate Danny Simpson and Edmund Yazzie	7/24/2012	Feasibility and Sustainability Planning and govt to govt relationship between the Navajo Nation and NM State PRC	T.Charlee & T. Massey
Navajo officials & other tribes @ Tribal Broadband Conf., Albuq.	8/3/2012	Feasibility and Sustainability Planning	J. Badal
White Rock Chapter President Henry & Councilman Simpson	8/14/2012	Feasibility and Sustainability Planning	T.Charlee
NNTRC / Brian Tagaban	8/15/2012	Compliance with Tribal Business and Licensing Requirements	T.Charlee
Navajo Nation Resources & Development Summit	8/22-24/2012	Feasibility and Sustainability Planning	T.Charlee
Tohajiilee Chapter Planning Committee	9/2/2012	Tribal Lifeline recertification Needs Assessment and Deployment Planning	J. Badal et al
Eastern Navajo Land Board L.Rogers	9/7/2012	Right of Way and other Permitting and Review Process	T.Charlee
Tohajiilee Chapter Community mtg	9/16/2012	Tribal Lifeline recertification Needs Assessment and Deployment Planning	J. Badal et al
BIA R. Montoya re roadways	9/19/2012	Right of Way and other Permitting and Review Process	T.Charlee
Tsayatoh Chapter President D. Lee	10/22/2012	Needs Assessments and Deployment Planning	T.Charlee
BIA Superintendent in Crownpoint	10/24/2012	Needs Assessment and Deployment	T.Charlee

		Planning Right of Way and Review Process	
Navajo Nation Chief of Staff A.Mitchell	10/29/2012	Feasibility and Sustainability Planning	T.Charlee
White Rock Chapter president & tribal council member	10/30/2012	Needs Assessment and Deployment Planning	J. Badal et al
NNTRC director B. Tagaban	11/13/2012	Compliance with Tribal Business and Licensing Requirements and Needs Assessment and Deployment Planning	J. Badal & T.Charlee
Navajo Nation Land Department M.Halona	12/6/2012	Right of Way and Review Process	T.Charlee
Tribal Council delegate D. Simpson	12/17/2012	Needs Assessment and Deployment Planning	T.Charlee

#### **Needs Assessment and Deployment Planning**

SWC has identified, using Global Positioning Satellite service, every house within its service territory, differentiating those with or without electric service and those currently connected or not connected to SWC's network. With that data and mapping, SWC has developed its network expansion plans to reach 90 percent of all homes with electricity by the end of 2013 and has discussed those plans with the NNTRC. Additionally, SWC has discussed with the NNTRC the needs of underserved and unserved tribal communities outside of SWC's service territory and will continue to work with the NNTRC on the development of plans to serve those in the near future.

#### **Feasibility and Sustainability Planning**

SWC has already demonstrated with the Navajo Nation its model of a sustainable telecommunications network serving Navajo customers in SWC's territory, the vast majority of whom are low income. The Navajo Nation has been kept apprised of SWC's infrastructure development and customer expansion and has participated in meetings and tribal government discussions of rights of way processes and tribal lease assessments that have negative effects on the sustainability of telecommunications systems on Navajo lands. Sustainability is currently achieved through a low interest RUS loan and the FCC's CAF support, without which no home-based telecommunications service on Navajo would be possible. SWC is discussing with the NNTRC and other Navajo Nation officials the feasibility and sustainability of expansion of infrastructure and services to Navajo areas outside of and near to SWC's service territory, made challenging by still rigid rights of way procedures and changes to the FCC's USF program. Hundreds of tribal homes remain unserved and underserved in those areas.

### **Rights of Way and Other Permitting and Review Processes**

SWC meets regularly with the NNTRC, the Navajo Nation President's office, the Navajo Nation Land Department, and Tribal Council and Chapter leaders to resolve rights of way impediments and improve procedures both at the Navajo Nation and the BIA. Those meetings are held at both the Navajo governmental offices and SWC's offices in Yatahey, NM. SWC has dedicated a Navajo manager to work closely with Navajo government and BIA officials, and the company's CEO and COO also meet on a frequent basis with key Navajo officials. SWC complies with all Navajo and federal government rights of way requirements and practices and has worked with the Navajo Nation to improve some permitting procedures that has accelerated review of permit requests.

### **Marketing Services in a Culturally Sensitive Manner**

SWC's outreach and mission are tribally oriented, and its employee handbook establishes and reinforces its tribally oriented corporate culture. SWC's commitment to its customers is read on its signage on buildings and its vehicles: *Diné ha na'anish* (We work for the People). SWC staffs its customer service office with bilingual service representatives; it advertizes on Navajo language radio; and it has used a recorded message in both Navajo and English transmitted directly to the phones of customers who had as yet not recertified eligibility for their Tribal Lifeline service. That messaging was an important factor in SWC's successful recertification drive.

SWC created a Web portal, called DinehNet, that is tailored to meet its tribal customers' online needs. DinehNet provides medical and government services information as well as information and stories from its customers on Navajo history, clanship, and other cultural aspects. That website is being used as a template for the Laguna Pueblo as part of SWC's broadband expansion efforts at the Pueblo. DinehNet also offers online Navajo language training developed by Rosetta Stone and exclusively sold through the Navajo Language Renaissance Group and SWC.

Additionally, SWC strives to reinforce its customers' culture within its workforce. SWC offers free Rosetta Stone language training to its employees and requires refresher language training for new customer service representatives where necessary. The company produces a monthly newsletter that regularly contains information about Navajo culture and holds brown bag lunch sessions from time to time with presentations on Navajo governmental requirements and culture. SWC invited the Navajo Nation's Office of Labor Relations to train managers on the Navajo Preference in Employment Act.

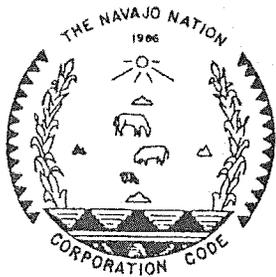
### **Compliance with Tribal Business and Licensing Requirements**

SWC is duly licensed by the Navajo Nation and files all of its tax reports and affirmative action updates as required. SWC supports the NNTRC's intent to establish certification requirements

and procedures for all telecommunications companies operating on Navajo lands. That is the Navajo Nation's right. SWC is one of the few telecommunications carriers so supporting the NNTRC in this endeavor, and that might be a problem for the NNTRC and for Sacred Wind, for all regulation should be applied to all telecommunications carriers equally.

SWC also supports the NNTRC's development of service quality standards and the filing of network maps and plans as well as pricing tariffs from all carriers. SWC will work with the Navajo Nation to ensure that all such regulation and procedures are applied to all telecommunications carriers equally.

Company Name: Sacred Wind Communications, Inc. ("SWC")
<b>Tribal Entity: Navajo Nation</b>
Date and time of contact: July 11, 2012 10:00AM- 11:30AM
Names of individuals involved in contact:  Navajo president; Deswood Tome, Asst to President; & Brian Tagaban, Exec. Dir. NNTRC
Specify section of 54.313 (a)(9) discussed:  (i) A needs assessment and deployment planning with a focus on Tribal community anchor institutions  (ii) Feasibility and sustainability planning  (iii) Marketing services in a culturally sensitive manner  (iv) Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes  Other as needed
Brief summary of key points of meeting:  SWC addressed recent NMPRC USF order and how that would impact SWC. Raised SWC's unique relationship with Navajo nation and support for its CCN rulemaking. Separate lunch meeting with B. Tagaban regarding status of CCN rules and how it would incorporate the FCC's tribal Engagement requirements. Again assured that SWC will support NNTRC's CCN rules.
Follow-meeting date is set for:  None specific
Route to:
Filed in Tribal Engagement folder on:



# NAVAJO NATION CORPORATION CODE

## CERTIFICATE OF AUTHORITY

*To all to Whom these Presents Shall Come, Greeting:*

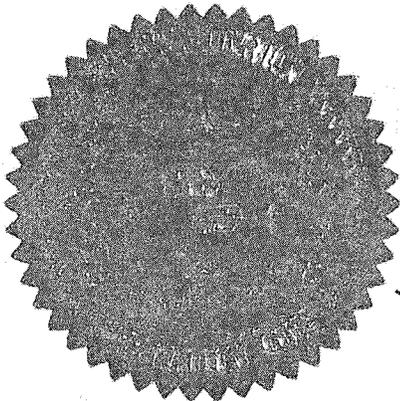
I, the Director of the Business Regulatory Department, DO HEREBY CERTIFY that

\*\*\*SACRED WIND COMMUNICATIONS, INC.\*\*\*  
File Number 101012

a CORPORATION organized under the laws of the STATE OF NEW  
MEXICO was on the 27th day of  
November, 2006, authorized to transact business within  
the Navajo Nation as FOREIGN CORPORATION.

I FURTHER CERTIFY that this corporation has filed all affidavits and annual reports and paid all annual filing fees required to date and, therefore, is in good standing within the Navajo Nation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Navajo Nation Corporation Code. Done at Window Rock, the Capital of the the Navajo Nation, this 27th day of November 2006 A.D.



*Frank D. Fry, Jr.*  
Director, Business Regulatory Department  
Division of Economic Development

**Before the  
Navajo Nation Telecommunications Regulatory Commission**

In the Matter of )  
 )  
Application for Certificate of Convenience and ) No. NNTRC-11-001  
Necessity (CCN) )  
 )  
 )  
\_\_\_\_\_ )

**SACRED WIND COMMUNICATION, INC.’S COMMENTS ON THE NAVAJO  
NATION TELECOMMUNICATIONS REGULATORY COMMISSION’S  
NOTICE OF PROPOSED RULEMAKING**

SACRED WIND COMMUNICATIONS, INC. (“Sacred Wind” or “SWC”), hereby provides its comments on the Notice of Proposed Rulemaking issued by the Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) on July 28, 2011, regarding the adoption of new rules to govern the issuance of certificates of convenience and necessity to telecommunications companies providing service within the Navajo Nation. For its comments, Sacred Wind states the following:

**Introduction**

Sacred Wind welcomes the opportunity to address the NNTRC as to the substantive and procedural parameters that will apply to telecommunications companies operating within the Navajo Nation. SWC does not take issue with the NNTRC’s authority to “promulgate rules and regulations” for telecommunications carriers operating within the Navajo Nation, beginning with the NNTRC’s authority to identify all telecommunications carriers operating within the Navajo Nation, but cautions the NNTRC to avoid duplication and conflicting regulation that will inevitably harm its stated goals of ensuring “the universal availability and accessibility” of reliable telecommunications services to the Navajo People.

In order to achieve its most basic regulatory authority, the NNTRC should establish a Certificate of Convenience & Necessity (“CCN”) or some registration procedure for all carriers that operate or intend to operate within the Navajo Nation.

SWC does have strong concerns, however, about the NNTRC’s reaching beyond a proper CCN certification requirement until larger issues are resolved, as described further below. With all due respect, the NNTRC is not correct in stating in its conclusions that all the information it seeks in its NOPR for a CCN process will enable it to: “(1) ensure the universal availability and accessibility of high quality affordable telecommunications services to all ..... on the Navajo Nation; (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services; (3) utilize forms of regulation commensurate with the level of competition .... ; (4) facilitate the efficient development and deployment of a telecommunications infrastructure ...; and (6) ensure that providers of telecommunications services on the Navajo Nation provide high quality customer service and high quality technical service.”

Specifically, the goals described in the NOPR’s conclusion items # 1, 2 and 4 above are far more affected by the land use policies and practices of the Navajo Nation and the federal government than can those goals be achieved by way of NNTRC regulation. These same goals are also set forth by the New Mexico Public Regulation Commission (“NMPRC”), but such goals have less chance of success on Navajo Lands than anywhere else in New Mexico because of the land use policies and practices that reign over telecommunications facilities placement on Navajo Lands.

Equally troubling is the fact that not all telecommunications carriers operating on Navajo Lands follow the same rights of way permitting procedures – some pursuing a lengthy step-by-step process at the Navajo Land Department and others bypassing that process through legislative or political gamesmanship. The Navajo Nation’s failure to establish a workable rights of way program for the development of adequate telecommunications infrastructure, compounded by its failure to properly “police” adherence by all telecommunications carriers to one program’s procedures, undermines any attempt to achieve universal service on Navajo Lands, much less introduce competitive choice.

### **Sacred Wind's Services and Territory**

Sacred Wind operates as a rural telecommunications carrier in the State of New Mexico pursuant to certificates of Financial and Technical Competency, Operating Authority and Public Convenience and Necessity issued to it by the New Mexico Public Regulation Commission on March 21, 2006. Sacred Wind's New Mexico certified service territory encompasses portions of 29 Chapters of the Navajo Nation, including the Tohajiilee (Cañoncito) band over an area of 3,600 square miles. There are approximately 8,300 occupied homes within this service territory.

Sacred Wind operates as the only rural, incumbent carrier certificated by the NMPRC authorized to provide service in its territory. Other carriers operating in the area are mobile wireless providers that not subject to significant regulation by the NMPRC. The proposed Rule suggests that the NNTRC will allow multiple carriers to operate in a single territory, however, this objective is at odds with the requirement, stated under Section C, Exhibit C-6, that a carrier make a statement whether it will provide service to all customer requesting local exchange service within five years of the date of issuance of the CCN. The Commission's intentions related to this showing should be clarified.

Sacred Wind serves its customer with facilities that include copper landline facilities originally installed by Qwest that have been reconfigured to intersect with Sacred Wind's fixed wireless and fiber systems, supported by Broadband Loop Carrier cabinets at critical distribution points. Sacred Wind provides services employing two state-of-the-art IP/TDM switches located at the Company's central offices in Yatahey and Bloomfield.

Sacred Wind's wireless network utilizes a mixture of FCC-licensed and unlicensed radio equipment. A fiber optic cable connects Sacred Wind's central offices to Qwest's system and to Sacred Wind's tower infrastructure. Sacred Wind owns 14 communications towers, located on mountain tops and high plateaus, and leases one tower. Sacred Wind has received necessary approvals from Navajo Nation and federal agencies to permit the siting of its towers and infrastructure installations at customer locations.

SWC's main purpose in acquiring its predecessor's (Qwest Corporation) legacy network on Navajo Lands in New Mexico was to deliver to Navajo Lands a level of investment in new infrastructure that was not made previously and to work with the Navajo Nation on a better right of way policy that would benefit the Navajo People by delivering affordable and advanced telecommunications services. It is Sacred Wind's contention that, until the right of way impediments are removed on Navajo Lands, added regulation will not benefit the Navajo People and will only create more disincentives for multiple carriers to develop their telecommunications systems on tribal lands.

Also, because much of the regulation of certain telecommunications providers operating over mobile wireless (cellular or PCS) and satellite systems is preempted by the federal government, goals described in the NOPR conclusion items # 2, 3, 4, and 6 above will not be met if the NNTRC is unable to impose the same requirements and regulations on all carriers competing for the same customers within the Navajo Nation.

### **Federal Programs Benefit Customers Within the Navajo Nation**

Sacred Wind understands the Navajo Tribal Council's adoption of 21 N.N.C. § 502 to incorporate a recognition that some federal laws may preempt the exercise of jurisdiction over telecommunications by the Navajo Nation. This Code provision further recognizes that other federal laws, even those that do not preempt tribal jurisdiction, will continue to be recognized if they "benefit and protect the traditions, customs and desires of the Navajo People and are not otherwise inconsistent with the provisions of this Act." 21 N.N.C. § 502(B). Sacred Wind strongly supports this objective of the Tribal Council and urges the NNTRC to put this principle into practice by recognizing those federal laws, regulations and programs that benefit and protect telecommunications customers within the Navajo Nation.

One example is the Federal Communications Commission's universal service support mechanisms spelled out at 47 U.S.C. Section 254(c). To be eligible to receive that support, something that is vital to providing service to Sacred Wind's customers, Sacred Wind was required to received an "eligible telecommunications carrier" designation from the NMPRC

pursuant to 47 U.S.C. § 214(e)(1). Sacred Wind's eligibility as a federal ETC allows it to participate in the FCC's Tribal Lifeline and Linkup Programs. The majority of Sacred Wind's customers qualify for the support provided by these programs. Through these programs, low-income customers may qualify for discounted telephone service (\$1.00 per month) and discounted service installations. Another example is the National Exchange Carriers Association's (NECA) pool that operates to benefit rural incumbent local exchange carriers as such carriers further develop infrastructure in rural areas of the country. Pricing for certain services that involve the interstate portion of a carrier's local network are determined by NECA, not the local regulatory jurisdiction.

In Sacred Wind's view, it is critically important for the Navajo Nation to obtain clarification of its authority to make designations that will allow telecommunications companies operating within its territory to continue to qualify for these essential programs. In the alternative, the Navajo Nation should recognize the designations that have been, and will be, made by state commissions to fulfill the requirements of federal law to assure continuing eligibility for these programs.

Another important example of federal laws and regulations affecting service within the Navajo Nation are those governing the interconnection between carriers. The United States Congress has declared its intention to occupy the field of regulation of interconnection between telecommunications carriers through the adoption of 47 U.S.C. 251, and 252. A complex set of federal regulations has grown up around the interconnection mandates of federal law. These regulations govern the issues of number portability, dialing parity, access to right-of-way, reciprocal compensation, unbundled access, service resale and collocation. 47 U.S.C. § 251(b); 47 C.F.R. §§ 51.200 and 51.300 series. In the view of Sacred Wind, these federal laws and regulations should be recognized and supported by the Navajo Nation as they reflect a fair, predictable and transparent means to achieve the Navajo Nation's stated objective of facilitating interoperability and interconnectivity. 21 N.N.C. §§ 513(B) & 524.

### **Dual Regulation by State Commissions and the NNTRC**

Sacred Wind additionally asks the NNTRC if its intentions to regulate such telecommunications carriers that operate on any Navajo Lands in New Mexico are meant to be exclusive to the NNTRC or is such authority to be shared with the NMPRC and other state commissions? Much of the comments submitted below by SWC revolve around the real and potential conflicts that may arise from splitting regulatory authority between two Commissions or by overlaying NNTRC regulation atop current NMPRC or other state regulation.

If the NNTRC's intentions are to exclusively regulate telecommunications carriers operating within the Navajo Nation, it must consider and resolve the jurisdictional questions that arise from the grant of authority to each State's regulatory commission by the State's constitution and statutory codes.

If the NNTRC's intentions are to overlay its regulation atop the State's or federal government's regulation, then it must consider and resolve the impact that dual regulation will have on carriers operating on Navajo Lands. Were that to occur, it is certain that the cost of providing telecommunications services will be higher on Navajo Lands than in any other area of New Mexico, which will serve as a disincentive – not an incentive – to further expand services to the Navajo People. Such dual regulation could well cause confusion for the telecommunications carriers, especially where the NNTRC's and the State commission's regulation differ one from another.

As a rural, incumbent local exchange carrier, Sacred Wind is subject to rate-of-return regulation by the NMPRC. This translates into detailed oversight of the Company's operations and the rates, terms and conditions of service under which Sacred Wind delivers service to its customers. NMSA 1978, §§ 63-9H-1 to 63-9H-14 (1999, as amended to 2005). Sacred Wind's tariffs are on file with the Commission and any change to those tariffs must be presented and is subject to challenge by the Commission or any interested party. NMSA 1978, § 63-9H-7 (1999, as amended to 2005). Sacred Wind welcomes the opportunity to assist the NNTRC in bringing to fruition meaningful regulation to assure quality telecommunications services throughout the Navajo Nation.

The relationship between the NNTRC's regulation of telephone companies and the states' is a critical issue requiring further comment and discussion. Sacred Wind would strongly recommend that the NNTRC schedule workshops to facilitate the development of regulations to implement the mandates of the Navajo Nation Code and to address the conflicts between those mandates and ongoing regulation of telecommunications companies by state commissions. If it is not the NNTRC's objective to regulate services provided to non-Navajo persons and businesses that are not licensed by the Navajo Nation, it should explicitly express this intention. The requirement that carriers keep "separate books and records for Navajo operations" suggests that the Navajo Nation is not seeking to regulate services provided to non-tribal members. If that is not the Navajo Nation's intention, that is, if the Navajo Nation is seeking to regulate any service provided to any customer within its tribal boundaries, that intention should be stated explicitly.

All stakeholders should be brought together to discuss and make recommendations to the NNTRC related to such critical issues as potential conflicts between state and tribal regulation of tariffing, quality of service, consumer complaints, interconnection between companies, and designation of territories.

### **Comments on Specific Provisions of the Rule**

#### **Tariffs**

Sacred Wind interprets Section B, Exhibit B-1 of the rule to endorse, for the time being, tariffs filed with state commissions. The NNTRC should make clear that this endorsement would include terms and conditions of service that are stated in such tariffs. There is the possibility that certain filed and approved terms and conditions will conflict with other provisions of the NNTRC's rule.

#### **Need for Confidentiality Rules**

Much of the information sought under the CCN rule is highly confidential, commercial information. See, for example, Section C, Financial Capability and Section D, Technical

Capability. The risk posed to a carrier that such information will fall into the hands of its competitors cannot be overstated. Revenue data and business planning information are just some of this type of information. Before requiring disclosure, the NNTRC should adopt specific procedures for the entry of protective orders that will require persons other than Commissioners and Commission Staff, to demonstrate that disclosure to such persons will not pose undue risk to the company that has filed the information.

### **Customer Service Plan**

Under Section F of the Rule, carriers are required to submit “customer service plan[s]” to govern the carrier-customer relationship. In the absence of any NNTRC rules governing such relationships, complying with this requirement will result in carriers adopting different plans. A carrier that operates solely in Arizona may have a plan that differs significantly from the plan of a carrier that operates solely in New Mexico. One notable example of a potential conflict arising from this approach is the manner in which carriers handle customer information. Federal law and regulation govern this area, but states have also adopted regulations dealing with this sensitive issue. See, e.g., 47 U.S. C. § 222 (2006); 17.11.16.9 NMAC (2/01/2006). The Rule partially adopts the requirements of federal law related to disclosure of customer information. See Exhibit G-5. Sacred Wind suggests that the Rule be amended to specifically require compliance with federal laws governing disclosure of customer proprietary network information. Again, it behooves the NNTRC to adopt rules to govern customer relationships as soon as practicable.

### **Customer Complaints**

By requiring carriers to include a bill message pointing customers to the NNTRC to file complaints, the rule would require carriers to respond to the NNTRC as well as any state commission that has consumer protection regulations. There is a substantial likelihood that a conflict may arise in how such complaints are handled. In this regard, the NNTRC is at something of a disadvantage as it has not yet adopted consumer protection rules. In the interim, the NNTRC should consider deferring to state commission complaint procedures until such time as it has adopted its own regulations. Sacred Wind welcomes the opportunity to work with the NNTRC to adopt rules to protect consumers.

### **Funding of viable regulation**

Notwithstanding the comments listed above regarding various rules that the NNTRC should put into place before requiring much of the information requested in the NOPR's Exhibits, no rules will achieve their intended purposes unless the NNTRC is adequately staffed and funded to become an enforcement agency. Customer complaint management, quality of service regulations, review of a company's earnings and rates, development of tariffs, review of a company's network design – all require a regulatory authority adequately staffed by individuals with finance and engineering backgrounds. In short, the step from CCN registration to actual regulation of utilities is an immense one. Some of the complexity of regulation can be read into the brief comments below to the itemized list proposed rules included in the NOPR's Exhibits.

### **Itemized list of proposed rulemaking**

Sacred Wind has the following comments on the information requested in the NNTRC's proposed application:

- a. **Section A – Applicant Information** - For all items in Section A, the requests are appropriate.
- b. **Section B – Proposed Scope of Service** - SWC supports provision of a “brief description of the services”, Service Area and the information about Operations in Other Jurisdictions. However in B-1, the request for tariff information would be burdensome and create additional regulatory costs as SWC already provides this information to the NMPRC.
- c. **Section C – Financial Capability:**
  1. **C-1 Financial Statements** – An annual financial report is already provided to the NMPRC once a year. This is considered public information and available through the NMPRC's online website. SWC feels that it is not necessary to provide this information in a different format to a second regulatory agency. The NNTRC's request to receive quarterly statements and reports to stockholders is burdensome and should not be part of the NNTRC CCN application.
  2. **C-2 Tax Returns** –The request for tax returns and documents is burdensome and not necessary for a CCN process.

3. **C-3 Revenue Earned in Other Jurisdictions** – This request for information for revenues and access charges from other jurisdictions is burdensome and not within the scope of a CCN process. Additionally, it is unclear what information is being requested. It appears that this request may be more relevant for competitive long distance carriers or cellular carriers than local exchange companies.
4. **C-4 Projected Number of Subscriptions and Related Data** – Initial subscriber projections are typically provided to the NMPRC during a certification proceeding, and additional projections would be burdensome and duplicative and should not be part of the NNTRC CCN application process. Furthermore, for a telecommunications carrier with physical facilities on Navajo Lands, these projections are influenced by many factors, most notably the length of time required for rights-of-way approvals, environmental approvals, and Navajo Nation, BIA and other governmental approvals. As a result, it is not productive or a good use of resources to develop additional detailed projections.
5. **C-5 Separate Books and Records** – SWC would respond “No” to this CCN application question, and further states that it would be extremely difficult, burdensome and expensive for any telecommunications carrier to separate its books by Navajo operations vs. non-Navajo operations.
6. **C-6 Timing of Provision of Local Service** – See response in paragraph 15.c.4 above.
7. **C-7 Prior Provision of Service – Revenues accrued** – SWC feels that it is relevant to provide to the NNTRC the date that service began, however, the request to provide accrued revenues is not appropriate. See responses in paragraphs 15.c.4 and 15.c.5 above.
8. **C-8 Required Insurance** – The request for this information is not within the scope of a CCN process. A telecommunications carrier will obtain whatever insurance is necessary to comply with industry standards and state and federal requirements.
- d. **Section D – Technical Capability** –Section D in the CCN application requests information that a New Mexico telecommunications carrier is required to provide to the NMPRC during a certification proceeding. Duplicating this process with another regulatory agency is unnecessary and burdensome. Furthermore, sections D-2 and D-4 request specific information regarding facilities on the Navajo Nation. It would be difficult to separate facilities information in cases where a certain facility or piece of equipment is used to provide services both on and off the Navajo Nation.

- e. **Section E - Managerial Capability** – All of Section E in the CCN application requests information that a New Mexico telecommunications carrier is required to provide to the NMPRC during a certification proceeding. Duplicating this process with another regulatory agency is unnecessary and burdensome.
- f. **Section F - Customer Service:**
  - 1. **F-1 (Customer Service Plan) and F-2 (Affirmative Customer Selection Procedures):** A request for this type of information should not be part of the NNTRC CCN application. Some of these categories are governed by existing state or federal tariffs and rules, and some of the categories are considered part of a company's internal operating procedures, which traditionally have not been tariffed to allow a company the flexibility to modify those procedures as appropriate.
  - 2. **F-3 Customer Complaint Data** – This information is already provided to the NMPRC and it would be duplicative and burdensome to replicate the process.
  - 3. **F-4 Sample Contract** – A request for this information should not be part of the NNTRC CCN application.
  - 4. **F-5 Sample Bill** – A request for this information should not be part of the NNTRC CCN application.
  - 5. **F-6 Customer Inquiries and Complaints** – A toll free number for SWC's customers has already been established and is provided on customer bills.
  - 6. **F-7 Bill Message** – There is already an NMPRC department (Consumer Relations Division) which handles customer complaints. The NMPRC has directed telecommunications carriers to provide the telephone number of the Consumer Relations Division to customers and SWC has complied by showing this contact information on customer bills. It would be confusing to customers and onerous to the telecommunication carriers to establish a duplicative second process with the NNTRC. The establishment of a duplicative customer complaint process could also create contradictory results that would interfere with resolving customer issues.
- g. **Section G – Public Policy:**
  - 1. **G-1 Public Interest** – This section in the NNTRC's CCN application requests information that a New Mexico telecommunications carrier is required to provide to the NMPRC during a certification proceeding. Duplicating this process with another regulatory agency is unnecessary and burdensome, and could result in conflicting jurisdictional requirements. For the

telecommunications carriers who have already received a CCN from the NMPRC, a CCN was already determined to be in the public interest. Section G-1 also addresses the development of effective competition, alternative forms of regulation, and the interconnection of telecommunications facilities. Federal and state rules address these matters in great detail and place certain requirements upon telecommunications carriers. Duplicating or modifying this process with another regulatory agency would prove burdensome and could result in conflicting jurisdictional requirements.

2. **G-2 Regulation and Navajo Nation Law** - It would be difficult for a telecommunications carrier to consent to the full territorial, regulatory and adjudicatory jurisdiction of the Navajo Nation in a blanket statement. Telecommunication carriers are already fully regulated by state and federal agencies and specific circumstances may result in conflicting jurisdictional requirements.
  3. **G-3 Navajo Nation Taxes and Fees** – This is an appropriate request in an NNTRC CCN application.
  4. **G-4 Emergency Cooperation** – A request for this type of information should not be part of the NNTRC CCN application. Existing state and federal laws describe how a telecommunication carrier must respond in the case of an emergency and the establishment of a separate procedure could result in conflicting jurisdictional requirements.
  5. **G-5 Requirement for Customer Release** – A request for this information should not be part of the NNTRC CCN application. The federal government has already implemented rules concerning the protection of customer data (Customer Proprietary Network Information, known as “CPNI”). The establishment of a separate NNTRC process would result in conflicting jurisdictional requirements.
- h. **Section H - Other Information or Motions** – This section is appropriate for the NNTRC CCN application.

### **Conclusion**

In conclusion, Sacred Wind recognizes the need for the NNTRC to impose some form of registration and regulation on telecommunications carriers operating within Navajo Lands; however, it respectfully requests the NNTRC to consider the extent of that regulation to avoid

duplication and conflicting jurisdictional requirements that could undermine the goal of providing reliable telecommunications services to the Navajo People. Sacred Wind also requests that the NNTRC place an emphasis on developing a solution to the single major impediment to providing these telecommunications services in a timely manner – land use policies.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'J. Badal', with a long horizontal line extending to the right.

John Badal, CEO  
Sacred Wind Communications, Inc.

**Before the  
Navajo Nation Telecommunications Regulatory Commission**

In the Matter of )  
 )  
Application for Certificate of Convenience and ) No. NNTRC-11-001  
Necessity (CCN) )  
 )  
\_\_\_\_\_ )

**SACRED WIND COMMUNICATION, INC.’S RESPONSE TO THE NAVAJO NATION  
TELECOMMUNICATIONS REGULATORY COMMISSION’S  
FURTHER PROPOSED RULEMAKING FOR A TIERED REGULATORY APPROACH**

SACRED WIND COMMUNICATIONS, INC. (“Sacred Wind” or “SWC”), hereby provides its comments on the Notice of Proposed Rulemaking issued by the Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) on August 27, 2012, regarding the adoption of new rules to govern the issuance of certificates of convenience and necessity to telecommunications companies providing service within the Navajo Nation. For its comments, Sacred Wind states the following:

**Introduction**

SWC agrees with the four-tiered approach the NNTRC is proposing, and contends that the proposed tiered approach will protect the interests of the Navajo People while providing telecommunications carriers greater flexibility needed to operate on tribal lands.

We raise questions herein about this tiered approach, however, not about the tiers themselves but on a fair balance between the amount of regulation imposed on a Public Interest Operator (PIO) or Negotiated Agreement Operator (NAO) versus the amount of rights- of-way benefit that such carriers might receive. An obvious reason for the concern is that no *public interest rate structure* for land use authorization has yet been developed for carriers operating on Navajo lands. A second reason for concern is that the NNTRC’s regulation versus rights-of-way benefit plan presumes that most, if not all, of a PIO or NAO’s network actually resides on tribal lands. How does the NNTRC intend to deal with wireless telecommunications facilities that are not located on tribal lands but that serve the Navajo people? Greater discussion of these points are found in Item 1 below.

Specific responses:

1. “Are there any reasons to treat different technologies differently from a regulatory perspective?” (Section II.2, pg 8)

No, the most effective and fair regulatory measures attempted by federal and state regulatory jurisdictions have avoided governmental handicapping of one technology over another. New Mexico and federal law, for example, advocate telecommunications regulations and laws promulgated in a technology-neutral manner.<sup>1</sup>

However, because the NNTRC proposes a special *public interest rate structure* for PIO and NAO carriers, affected carriers may view that the NNTRC is inexorably tying regulation to a type of technology.<sup>2</sup> For example, it may be relatively uncomplicated to balance regulation of a “last mile” landline carrier with the benefits derived from a special *public interest rate structure*, but it will be hugely difficult to balance PIO or NAO levels of regulation with any public interest rate structure of a carrier that can provide services to the Navajo Nation from facilities that are mainly off tribal lands. In other words, the added cost of regulation may not be offset by a consequential reduction in land use authorization costs for such carriers. In such cases, where much of a carrier’s network facilities are located off of Navajo lands, the NNTRC’s proposed *public interest rate structure* should not be portrayed as a trade-off to regulation, but as an inducement to build further infrastructure on Navajo lands.

In that the current Navajo Nation and Bureau of Indian Affairs (BIA) land use processes function as a serious impediment to serving the Navajo people, a substantial *public interest rate structure* is just one step to building a significant inducement to serve the Navajo people. The second step, just as importantly, is of course, to vastly improve the land use authorization processes, including the 164 SAS process.

The better distinguishing criterion in the formulation of NNTRC regulation can and should be one that is based on whether or not a telecommunications carrier primarily or majorly serves the Navajo people. SWC agrees that the service categories proposed in the four tiers (less than or more than 50 customers served; less than or more than \$100,000 gross revenues) satisfy the need

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<sup>1</sup> See *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. § 609 et. seq.) (stating that the Act seeks to in part “encourage the rapid deployment of new telecommunications technologies”) and *New Mexico Telecommunications Act*, N.M. STAT. § 63-9A-2 (1978).

<sup>2</sup> SWC understands that the Navajo Nation has the sovereign right to exclude non-Indians from its reservation under the Treaty of 1868. The overriding interest of the Navajo Nation in this CCN process is to set conditions for entry by telecommunications companies, and that the NNTRC is exercising this regulatory authority through the CCN process properly. However, there should be understood a needed balance involving the sovereign rights of the Navajo Nation, the personal and professional developmental needs of the Navajo people, and the business drivers of any interested telecommunications companies.

to distinguish carriers that serve the Navajo people as part of their mission from those who reach fewer Navajo customers merely as incidental to their main business.

As just one example of the importance of the above, the distinction of serving the Navajo people was never made in either the BIA or the Navajo Nation Land Department's consideration of SWC's petition to install a fiber optic cable in the Upper Fruitland area which would have served no more than 500 Navajo households. SWC has spent over \$480,000 in following both governmental entities' processes and still is unable to install that facility unless it pays tens of thousands of dollars more for an easement fee to the Navajo Nation and the BIA. The monies SWC has already spent on that project far exceed what is practical and reasonable for capital expenditures on any customers who would subscribe to basic telephone and broadband services. Such expenditures and timely processes on tribal lands have already prompted the New Mexico Public Regulation Commission to penalize SWC, claiming that SWC's investments on Navajo lands are "imprudent."<sup>3</sup>

While a special *public interest rate structure* for SWC's future facilities on Navajo lands will be greatly helpful and appreciated, how can the rate structure compensate for a land use authorization process that is already too lengthy and expensive to warrant further growth?

**Recommendation:** The NNTRC must do all possible, working with the Navajo Nation Office of the President & Vice President, the Navajo Nation Tribal Council, and the BIA, to improve the land use authorization processes that hinder telecommunications development on tribal lands.

## 2. Filings of Public Interest Operator (PIO)

SWC qualifies as a PIO and would be required to file an annual service plan and report, as also pursuant to the FCC's USF/CAF Order,<sup>4</sup> SWC has no objection to filing an annual report and wishes to make available all information that will be helpful to the NNTRC in meeting its public interest objectives.

SWC, however, seeks modification of, or direction from the NNTRC on facilities-specific data it is requesting. It is the one item listed in Section II.A.3 of the NNTRC Report and Order that SWC finds extremely difficult to provide on a system-wide basis.

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<sup>3</sup> *In the Matter of the Application of Sacred Wind Communications, Inc. for Approval of Initial Rates, Terms, and Conditions of Service and for support from the New Mexico Rural Universal Service Fund And Petition for Variance from Commission Rules*, Case No. 10-00315-UT, Amended and Restated Final Order Partially Adopting Certification of Stipulation (N.M.P.R.C. issued July 26, 2012).

<sup>4</sup> *In the Matter of Connect America Fund*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶ 637 (2011).

All Eligible Telecommunications Carriers (ETCs) operating on Navajo lands will have some of their facilities that provide capacity or other functions supporting the greater network that do not directly serve a specific community of customers. Most of those ETCs will have also facilities in this category *off* of Navajo lands that serve Navajo customers. It is doubtful that any ETC organizes its customer accounts by a given facility beyond the Central Office (at which point telecommunications account numbers are assigned), and it would therefore incur an expensive and time consuming amount of work to identify and track customers served from a single outside plant facility. Measuring the amount of revenue generated from each telecommunications facility on Navajo lands would be nearly impossible. Keeping separate books and records for Navajo facilities as would be required by the CCN would be equally difficult.

The one exception to this facilities-specific data gathering may be single wireless communications sites that act as a segment of the “last mile,” which can be isolated to measure the number of customers that can be, or are served from that wireless site. In that much of SWC’s fixed wireless tower infrastructure is located off of tribal lands, measuring the amount of traffic or revenue on segments of its network that *are* located on tribal lands may not be helpful to the NNTRC. For example, the larger towers atop Gibson Peak and Mt. Powell, the only backhaul towers located on tribal lands of SWC’s backhaul tower network, provide capacity to many Navajo customers in multiple wire centers and some nontribal customers in nearby ranch or other unincorporated communities who are distinguished on our accounts only by their tribal or state tax code. That capacity is then transmitted to broadband loop carrier cabinets that are equally hard to track by customer account.

As an alternative, SWC can, however, provide some detail on its facilities and associated revenues on some wireless sites where there is a clear “last mile” linkage of a tribally located facility to a set group of customers. For example, revenue calculations can be made for an aggregation site (relay tower) at Tohajiilee that specifically serves a HUD community. *Such information, though, would be highly proprietary and confidential and could never be shared with any party beyond the NNTRC.* Such telecommunications facilities that are directly identified with a specific grouping of Navajo customers represent only a small portion of SWC’s total network.

It would be far more beneficial for the NNTRC to annually require a total Navajo customer count and total network revenues from Navajo customers rather than a breakdown by facility. The only practical way of establishing a linkage between a telecommunications facility and revenues generated from that facility would be by way of an estimation from the company *at* the time of its seeking rights-of-way, colocation or easement authorization when that facility has yet to be integrated with the rest of the network. But, even so, an estimation of revenues generated from a facility that is not specifically and clearly a component of the “last mile” would be virtually impossible. Additionally, to track customer numbers and revenues by each facility on an

ongoing basis would require an expensive and time consuming reorganization of an ETC's engineering, service ordering, billing, and accounting systems.

**Recommendation:** A far better structure for regulation of PIOs and NAOs, and structure of the *public interest rate*, would be based on whether or not the carrier and its facilities will primarily or majorly serve Navajo customers and whether or not such facility would function as a "middle mile" or "last mile" facility, or other determination that differentiates a rights-of-way price based on the volume of customers to be served.

### 3. Clarification of General Operator filing

As an ETC and regulated Incumbent Local Exchange Carrier ("ILEC"), SWC provides regulated telecommunications services on Tribal and some nontribal lands. Accordingly, SWC fits the description of a PIO in the NNTRC's Report and Order. SW Telesolutions ("Telesolutions") is affiliated with SWC, both operating under one holding company, and provides unregulated services, mainly Internet and long distance, to its customers. Telesolutions actually purchases broadband capacity from SWC and then provides services that are subject to minimal regulation by state or federal jurisdictions. On a cursory review of the report and Order's Section II.A.2, Telesolutions would appear to fit the description of a General Operator ("GO"), but actually fails to meet two principal criteria: it does not build its own outside plant facilities and it does not and cannot provide E-911 service, which is a regulated service. SWC must conclude, therefore, that the NNTRC does not intend to include Internet service providers in its tiered regulatory approach.

**Recommendation:** Because SWC believes that the NNTRC would be ill-served if denied broadband-related information from the telecommunications carriers that operate on Navajo lands, SWC recommends that broadband-related information be either included in the ETC's annual report and service plan, *or in a separate, nonregulatory and easily processed vehicle required of the Internet service provider*. That information would include the customer and network expansion information that would help the Navajo Nation determine its standing in terms of broadband availability, subscription, and future planning.

SWC offers to include such broadband-related information as an attachment to its PIO annual report and service plan only if it is understood that its holding company's or affiliate's unregulated services remain unregulated and that such information would be treated as highly proprietary and confidential as well.

### 4. Other issues:

Though not included in the request for further comment, a few other items already discussed in the NNTRC's Report and Order merit further consideration:

- a) Commenting on the NNTRC's responses in Section I.B. 6 & 7, SWC agrees with the NNTRC's findings in paragraph 6 and its comments in paragraph 7, but seeks specific direction from the NNTRC as to how it intends to deal with customer complaint procedures that ETCs are currently subjected to by their state regulatory commissions. SWC's chief concern in this regard is driven by its desire to avoid customer confusion if it is required both by the New Mexico Public Regulation Commission ("NMPRC")<sup>5</sup> and the NNTRC to have included in our billing statements information regarding both Commissions' customer complaint offices. SWC certainly wants to avoid situations that may appear on their surface racially segregated if a Navajo customer were inadvertently to call the NMPRC and not the NNTRC.

**Recommendation:** SWC recommends to the NNTRC that ETCs include only their state commission's customer complaint information in their monthly billing statements (since that remains a legal requirement of them) until such time as the NNTRC arranges with the state commission to assume for itself that responsibility and so remove from state commission's rules the current requirement that the ETCs must comply with the state's customer complaint provisions in *all* areas of their service territories.

- b) With respect to the information sought by the NNTRC for its CCN filing and in the required annual report and service plans, SWC respectfully asks the NNTRC what is its timelines for submission of such information?
- c) With respect to the information sought by the NNTRC for its CCN filing and in the required annual report and service plans, SWC also asks the NNTRC when does it intend to complete its process and standards for receipt, review and safeguard of highly proprietary and confidential information that ETCs will be required to provide?

SWC is ready to file its CCN documents and is working toward satisfying the NNTRC's annual report and service plan requirements, but must wait until adequate provisions are made and assurances are given to safeguard such proprietary and confidential information.

**Recommendation:** SWC realizes that the NNTRC is currently working on its schedules for CCN filings and for establishment of various regulatory procedures and can certainly wait for those to be completed. It urges the NNTRC, though, to establish and enforce the most stringent safeguards for carriers' proprietary and confidential information, lest it lose credibility in the early stages of its new regulatory life.

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<sup>5</sup> 17.11.8.11 NMAC (July 1, 1999).

We appreciate the NNRTC's work in developing the structure and processes for this CCN filing and thank it for the opportunity to provide these comments. We look forward to working with the NNTRC further on this.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'J. Badal', with a long horizontal line extending to the right.

John Badal, CEO  
Sacred Wind Communications, Inc.

January 17, 2012

Brian Tagaban, Executive Director  
Navajo Nation Telecommunication Regulatory Commission  
Morgan Blvd  
Building #2740, Training Center  
Window Rock, AZ 86515

Subject: Application for Certificate of Convenience and Necessity, No. NNTRC-11-001

Sacred Wind Communications supports the Navajo Nation Telecommunications Regulatory Commission's (NNTRC) intent to establish certification requirements and procedures for all telecommunications companies operating on Navajo lands. That is the Navajo Nation's right. We might be one of the few telecommunications carriers so supporting the NNTRC in this endeavor, and that might be a problem for the NNTRC and for Sacred Wind, for we would oppose any regulation that is not applied to all telecommunications carriers equally.

Sacred Wind also supports the NNTRC's development of service quality standards and the filing of network maps and plans as well as pricing tariffs from all carriers. Again, though, all such regulation and procedures need to be applied to all telecommunications carriers equally. Two additional caveats are warranted as the NNTRC considers additional forms of regulation:

- 1) The NNTRC needs to have the properly skilled staff to interpret and manage other issues that accompany a telecommunications company's network design, technologies deployed, universal equipment and service standards and pricing.
- 2) The NNTRC must ensure that its regulation is not *in addition* to the regulation imposed by the state utility commission (New Mexico, Arizona, Utah), but in place of that, or else it will soon be seen that telecommunications companies that operate on Navajo lands will face even higher operating costs than those who do not operate on Navajo lands.

The Navajo Nation should not tolerate either a situation where one carrier, or class of carriers, is subjected to NNTRC regulation and others escape the same level of regulation or simply ignore it. Not only would such disparity in regulatory treatment be an affront to the Nation, but it would also create a difference in the cost of operating on Navajo lands between those who agree to be regulated and those who refuse.

And finally – and with all due respect to the NNTRC -- Sacred Wind disagrees with the initial premise that the NNTRC’s efforts to create a CCN standard will “ensure the universal availability and accessibility of high quality affordable telecommunications services to all ..... on the Navajo Nation” and “facilitate the efficient development and deployment of a telecommunications infrastructure.” These goals described in the NNTRC’s NOPR are far more affected by the land use policies and practices of the Navajo Nation and the federal government. Without serious reform at the Navajo Nation and BIA of its disposition of land use permits for new telecommunications facilities, all the regulation in the world will not improve the delivery of services to the Navajo People – it will just add to our costs of doing business. For example, the years-long process to allow carriers to simply attach fiber optic or copper cables to an existing electric pole is probably the single-most common impediment to delivering basic and broadband services to the Navajo people. If this were fixed, telecommunications carriers would have less reason not to invest in new facilities on Navajo lands and the NNTRC could then be meaningfully engaged in reviewing the network plans of those committed to serve the Navajo People.

Sincerely,  
John Badal

# Sacred Wind Communications

## I. NAVAJO PREFERENCE IN EMPLOYMENT ACT POLICY STATEMENT

Sacred Wind Communications (SWC) is a telecommunications company that provides telephone and internet services to communities and businesses within a defined service area on the Navajo reservation in New Mexico.<sup>1</sup> Hiring staff that understand the Navajo culture, traditions, and speak the Navajo language is essential for SWC to compete in the telecommunications market and to provide service to this predominantly Navajo population. It is crucial that staff who have been hired for their respective positions be qualified and meet the minimum education, skills, and experience required for their positions within SWC. Furthermore, it is essential that staff exemplify high caliber work ethics during their employment with SWC. SWC chooses to comply with the *Navajo Preference in Employment Act* (NPEA) because providing employment opportunities to Navajo workers is beneficial for its operations, and developing the skills of those workers to assume supervisory positions in SWC will serve SWC's interest in the long-term. For these reasons, SWC will align its employment decisions and personnel actions as much as possible in a manner which upholds the principles, intent, and purposes of the NPEA. SWC is an Equal Employment Opportunity employer and it complies with the Indian Preference exception under 42 U.S.C. § 2000e-2(i)(1982).

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<sup>1</sup> See Appendix A for a map of SWC's Service Area.

## **Sacred Wind Communications**

### **Low-Income Telephone Assistance Program Terms & Conditions**

Sacred Wind Communications provides unlimited local calling for residential customers at a discount of \$9.25 a month for basic lifeline. Tribal Lifeline customers receive free basic unlimited local telephone service through the Federal Tribal Lifeline program. The lifeline service from Sacred Wind provides access to emergency, operator, interexchange, and directory assistance services. The service does not include enhanced calling features such as voice mail, caller ID, call forwarding, internet or long distance telephone service. Toll Restriction service is provided at no charge for Lifeline customers.

USDA-RUS

This data will be used by RUS to review your financial situation. Your response is required by 7 U.S.C. 901 et seq. and, subject to federal laws and regulations regarding confidential information, will be treated as confidential.

**OPERATING REPORT FOR  
TELECOMMUNICATIONS BORROWERS**

BORROWER NAME

Sacred Wind Communications, Inc.

(Prepared with Audited Data)

INSTRUCTIONS-Submit report to RUS within 30 days after close of the period.  
For detailed instructions, see RUS Bulletin 1744-2. Report in whole dollars only.

PERIOD ENDING

December, 2012

BORROWER DESIGNATION

NM0525

**CERTIFICATION**

We hereby certify that the entries in this report are in accordance with the accounts and other records of the system and reflect the status of the system to the best of our knowledge and belief.

**ALL INSURANCE REQUIRED BY 7 CFR PART 1788, CHAPTER XVII, RUS, WAS IN FORCE DURING THE REPORTING PERIOD AND RENEWALS HAVE BEEN OBTAINED FOR ALL POLICIES.**

**DURING THE PERIOD COVERED BY THIS REPORT PURSUANT TO PART 1788 OF 7CFR CHAPTER XVII**

(Check one of the following)

All of the obligations under the RUS loan documents have been fulfilled in all material respects.

There has been a default in the fulfillment of the obligations under the RUS loan documents. Said default(s) is/are specifically described in the Telecom Operating Report

John Badal

4/1/2013

DATE

**PART A. BALANCE SHEET**

ASSETS	BALANCE		LIABILITIES AND STOCKHOLDERS' EQUITY	BALANCE	
	PRIOR YEAR	END OF PERIOD		PRIOR YEAR	END OF PERIOD
<b>CURRENT ASSETS</b>			<b>CURRENT LIABILITIES</b>		
1. Cash and Equivalents	1,411,446	2,774,137	25. Accounts Payable	1,859,371	2,019,700
2. Cash-RUS Construction Fund	1,061,148	1,001,144	26. Notes Payable		
3. Affiliates:			27. Advance Billings and Payments		
a. Telecom, Accounts Receivable			28. Customer Deposits	40,836	12,216
b. Other Accounts Receivable	247,838		29. Current Mat. L/T Debt	1,453,019	1,427,575
c. Notes Receivable			30. Current Mat. L/T Debt-Rur. Dev.		
4. Non-Affiliates:			31. Current Mat.-Capital Leases		
a. Telecom, Accounts Receivable	87,243	101,980	32. Income Taxes Accrued		
b. Other Accounts Receivable	1,061,990	2,242,829	33. Other Taxes Accrued	285,107	(48,976)
c. Notes Receivable			34. Other Current Liabilities	246,977	630,412
5. Interest and Dividends Receivable			35. Total Current Liabilities (25 thru 34)	3,885,310	4,040,927
6. Material-Regulated	989,863	849,060	<b>LONG-TERM DEBT</b>		
7. Material-Nonregulated	0		36. Funded Debt-RUS Notes	36,007,213	35,720,337
8. Prepayments	40,981	8,500	37. Funded Debt-RTB Notes		
9. Other Current Assets	1,055	1,055	38. Funded Debt-FFB Notes		
10. Total Current Assets (1 Thru 9)	4,901,564	6,978,705	39. Funded Debt-Other		
<b>NONCURRENT ASSETS</b>			40. Funded Debt-Rural Develop. Loan		
11. Investment in Affiliated Companies			41. Premium (Discount) on L/T Debt		
a. Rural Development			42. Reacquired Debt		
b. Nonrural Development			43. Obligations Under Capital Lease		
12. Other Investments			44. Adv. From Affiliated Companies		
a. Rural Development			45. Other Long-Term Debt		
b. Nonrural Development			46. Total Long-Term Debt (36 thru 45)	36,007,213	35,720,337
13. Nonregulated Investments			<b>OTHER LIAB. &amp; DEF. CREDITS</b>		
14. Other Noncurrent Assets			47. Other Long-Term Liabilities	729,956	906,582
15. Deferred Charges	449,508	0	48. Other Deferred Credits		
16. Jurisdictional Differences			49. Other Jurisdictional Differences		
17. Total Noncurrent Assets (11 thru 16)	449,508	0	50. Total Other Liabilities and Deferred Credits (47 thru 49)	729,956	906,582
<b>PLANT, PROPERTY, AND EQUIPMENT</b>			<b>EQUITY</b>		
18. Telecom, Plant-in-Service	51,377,434	54,974,699	51. Cap. Stock Outstand. & Subscribed	1,375,049	1,375,049
19. Property Held for Future Use			52. Additional Paid-in-Capital		
20. Plant Under Construction	3,571,953	3,286,340	53. Treasury Stock		
21. Plant Adj., Nonop. Plant & Goodwill	(14,031)		54. Membership and Cap. Certificates		
22. Less Accumulated Depreciation	17,127,791	20,942,504	55. Other Capital		
23. Net Plant (18 thru 21 less 22)	37,807,565	37,318,535	56. Patronage Capital Credits		
24. TOTAL ASSETS (10+17+23)			57. Retained Earnings or Margins	1,161,109	2,254,345
	43,158,637	44,297,240	58. Total Equity (51 thru 57)	2,536,158	3,629,394
			59. TOTAL LIABILITIES AND EQUITY (35+46+50+58)	43,158,637	44,297,240

Total Equity = 8.19% of Total Assets

**OPERATING REPORT FOR  
TELECOMMUNICATIONS BORROWERS**

NM0525

PERIOD ENDING

December, 2012

INSTRUCTIONS- See RUS Bulletin 1744-2

**PART B. STATEMENTS OF INCOME AND RETAINED EARNINGS OR MARGINS**

ITEM	PRIOR YEAR	THIS YEAR
1. Local Network Services Revenues	818,455	925,490
2. Network Access Services Revenues	9,688,283	11,056,384
3. Long Distance Network Services Revenues	305	72
4. Carrier Billing and Collection Revenues	14,328	15,740
5. Miscellaneous Revenues	139,386	40,616
6. Uncollectible Revenues	31,498	(31,091)
<b>7. Net Operating Revenues (1 thru 5 less 6)</b>	<b>10,629,259</b>	<b>12,069,393</b>
8. Plant Specific Operations Expense	1,753,644	1,677,711
9. Plant Nonspecific Operations Expense (Excluding Depreciation & Amortization)	879,599	1,085,832
10. Depreciation Expense	3,756,009	3,852,039
11. Amortization Expense	20,703	14,976
12. Customer Operations Expense	535,134	542,924
13. Corporate Operations Expense	1,691,847	1,890,970
<b>14. Total Operating Expenses (8 thru 13)</b>	<b>8,636,936</b>	<b>9,064,452</b>
15. Operating Income or Margins (7 less 14)	1,992,323	3,004,941
16. Other Operating Income and Expenses	(19,272)	(23,160)
17. State and Local Taxes	50	55,484
18. Federal Income Taxes		(118,138)
19. Other Taxes	429,189	479,618
<b>20. Total Operating Taxes (17+18+19)</b>	<b>429,239</b>	<b>416,964</b>
21. Net Operating Income or Margins (15+16-20)	1,543,812	2,564,817
22. Interest on Funded Debt	1,521,301	1,548,723
23. Interest Expense - Capital Leases		
24. Other Interest Expense	37,257	39,661
25. Allowance for Funds Used During Construction	142,777	150,149
<b>26. Total Fixed Charges (22+23+24-25)</b>	<b>1,415,781</b>	<b>1,438,235</b>
27. Nonoperating Net Income	(24,417)	(33,346)
28. Extraordinary Items		
29. Jurisdictional Differences		
30. Nonregulated Net Income		
<b>31. Total Net Income or Margins (21+27+28+29+30-26)</b>	<b>103,614</b>	<b>1,093,236</b>
32. Total Taxes Based on Income	50	
33. Retained Earnings or Margins Beginning-of-Year	1,057,495	1,161,109
34. Miscellaneous Credits Year-to-Date		
35. Dividends Declared (Common)	0	
36. Dividends Declared (Preferred)		
37. Other Debits Year-to-Date		
38. Transfers to Patronage Capital		
<b>39. Retained Earnings or Margins End-of-Period [(31+33+34) - (35+36+37+38)]</b>	<b>1,161,109</b>	<b>2,254,345</b>
40. Patronage Capital Beginning-of-Year		
41. Transfers to Patronage Capital		
42. Patronage Capital Credits Retired		
<b>43. Patronage Capital End-of-Year (40+41-42)</b>	<b>0</b>	<b>0</b>
44. Annual Debt Service Payments	2,736,597	2,939,060
45. Cash Ratio [(14+20-10-11) / 7]	0.4976	0.4652
46. Operating Accrual Ratio [(14+20+26) / 7]	0.9861	0.9047
47. TIER [(31+26) / 26]	1.0732	1.7601
48. DSCR [(31+26+10+11) / 44]	1.9353	2.1771

USDA-RUS		BORROWER DESIGNATION	
OPERATING REPORT FOR TELECOMMUNICATIONS BORROWERS		NM0525	
INSTRUCTIONS – See help in the online application.		PERIOD ENDED	
		December, 2012	
<b>PART I – STATEMENT OF CASH FLOWS</b>			
1. Beginning Cash (Cash and Equivalents plus RUS Construction Fund)		2,472,594	
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
2. Net Income		1,093,236	
<i>Adjustments to Reconcile Net Income to Net Cash Provided by Operating Activities</i>			
3. Add: Depreciation		3,852,039	
4. Add: Amortization		14,976	
5. Other (Explain) Retirement		(52,302)	
<i>Changes in Operating Assets and Liabilities</i>			
6. Decrease/(Increase) in Accounts Receivable		(947,738)	
7. Decrease/(Increase) in Materials and Inventory		140,803	
8. Decrease/(Increase) in Prepayments and Deferred Charges		481,989	
9. Decrease/(Increase) in Other Current Assets		0	
10. Increase/(Decrease) in Accounts Payable		160,329	
11. Increase/(Decrease) in Advance Billings & Payments		0	
12. Increase/(Decrease) in Other Current Liabilities		383,435	
13. Net Cash Provided/(Used) by Operations		5,126,767	
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
14. Decrease/(Increase) in Notes Receivable		0	
15. Increase/(Decrease) in Notes Payable		0	
16. Increase/(Decrease) in Customer Deposits		(28,620)	
17. Net Increase/(Decrease) in Long Term Debt (Including Current Maturities)		(312,320)	
18. Increase/(Decrease) in Other Liabilities & Deferred Credits		176,626	
19. Increase/(Decrease) in Capital Stock, Paid-in Capital, Membership and Capital Certificates & Other Capital		0	
20. Less: Payment of Dividends		0	
21. Less: Patronage Capital Credits Retired		0	
22. Other (Explain) Other Taxes Accrued		(334,083)	
23. Net Cash Provided/(Used) by Financing Activities		(498,397)	
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
24. Net Capital Expenditures (Property, Plant & Equipment)		(3,311,652)	
25. Other Long-Term Investments		0	
26. Other Noncurrent Assets & Jurisdictional Differences		0	
27. Other (Explain) Goodwill		(14,031)	
28. Net Cash Provided/(Used) by Investing Activities		(3,325,683)	
29. Net Increase/(Decrease) in Cash		1,302,687	
30. Ending Cash		3,775,281	

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