



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #REN-13-063

TITLE: Request that the Federal Communications Commission Work with Tribally-Owned and Operated Telecommunications Carriers to Establish a Tribal Proxy

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, on October 27, 2011, the Federal Communications Commission (FCC) adopted the *Universal Service Fund/Intercarrier Compensation Transformation Order (Order)*, in which the FCC, among other things, initiated a proceeding to represcribe the authorized rate of return, which will have significant effects on revenues for certain tribally-owned and operated telecommunications carriers; and

WHEREAS, the FCC acknowledged in the *Order* that tribally-owned and operated telecommunications carriers cannot collateralize trust land assets, and as a result have a substantially more limited ability to access credit and capital than their non-tribally-owned counterparts; and

WHEREAS, the FCC further acknowledged in the *Order* that tribally-owned and operated telecommunications carriers face unique circumstances not encountered by their non-tribally-owned counterparts and play a vital role in serving the needs and interests of their local communities, often in remote, low-income, and underserved regions of the country; and

WHEREAS, the FCC specifically inquired and recognized, under paragraph 1059 of the Order, that tribally-owned and operated telecommunications carriers serve cyclically impoverished communities with a historical lack of critical infrastructure, and that reservation-based economies lack fundamental similarities to non-reservation economies and are among the most impoverished economies in the country; and

WHEREAS, a number of tribes, tribal telecommunications carriers, and tribal organizations, such as the Gila River Indian Community and Gila River Telecommunications, Inc., Mescalero Apache Telecom, Inc., Hopi Telecommunications Inc., and the National Tribal Telecommunications Association

(tribal commenters) filed comments in the FCC's Electronic Comment Filing System raising concerns that lowering the current rate of return would have significant adverse effects on vital revenues of certain tribally-owned and operated telecommunications carriers; and

WHEREAS, the filings submitted by the tribal commenters further stated that costs incurred for network operations and investment by tribally-owned and operated telecommunications carriers are significantly higher than for telecommunications carriers not operating on Tribal lands; and

WHEREAS, the filings by the tribal commenters also stressed tribal specific and unique challenges tribally-owned and operated telecommunications carriers experience, which include obligations to provide service to all residents at the same standard rate, increased costs and delays with obtaining cultural clearance for rights-of-way on tribal lands, a lack of technically trained individuals on tribal lands, customer bases that are largely dependent on Lifeline support, and increased business risks assumed to provide services for median household incomes significantly lower than the national average; and

WHEREAS, the currently authorized rate of return is 11.25 percent on May 16, 2013, the FCC's Wireline Competition Bureau prepared a staff report recommending the FCC consider establishing the authorized rate of return at approximately 8 percent; and

WHEREAS, this lower rate of return would negatively impact the revenues of certain Tribally-owned and operated telecommunications carriers and would likely have significant adverse effects on the levels of service provided to such carriers' tribal and non-tribal customers; and

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians hereby respectfully urges the FCC to direct the Office of Native Affairs and Policy and Wireline Competition Bureau to develop a tribal proxy for the purposes of calculating a unique zone of reasonableness for a rate-of-return for tribally-owned and operated telecommunications carriers due to the unique economic disparities that exist in tribal communities, a very different weighted access to capital of such carriers, the inability of such carriers to collateralize trust land assets, the limited ability of such carriers to access credit and capital, the vital role such carriers play in serving the needs of interests of their local communities, and the economic challenges encountered by such carriers in providing service on tribal lands to tribal and non-tribal customers; and

BE IT FURTHER RESOLVED, that NCAI respectfully urges the FCC to send a representative(s) from the Office of Native Affairs and Policy to all NCAI conferences for consultation purposes; and

BE IT FURTHER RESOLVED, that the FCC, Office of Native Affairs and Policy develop a consultation plan to engage all tribal nations across the country at various venues and tribal gatherings to ensure tribal issues are considered for all FCC dockets; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Midyear Session of the National Congress of American Indians, held at the Atlantis Casino from June 24 - 27, 2013 in Reno, Nevada with a quorum present.



President

ATTEST:



Recording Secretary