



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #AK-21-021

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### NCAI HEADQUARTERS

1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
www.ncai.org

### **TITLE: Calling on the Federal Communications Commission, Congress, and the Administration to Discontinue Use of the “Rural Tribal Lands” Definition**

**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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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**, the Federal Government has a trust responsibility to Tribal Nations; and

**WHEREAS**, on November 16, 2017, the Federal Communications Commission (FCC) adopted a Fourth Report & Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking (NPRM), and Notice of Inquiry (2017 Lifeline Order); and

**WHEREAS**, on July 10, 2019, the FCC adopted a Report & Order in the Matter of Transforming the 2.5 GHz Band; and

**WHEREAS**, these orders included throughout the designation “rural Tribal lands” defined as Tribal lands that are not part of “an urbanized area or urban cluster area with a population equal to or greater than 50,000;” and

**WHEREAS**, the designation “rural Tribal lands” restricts and eliminates eligibility for programs, policies, and funding opportunities to Tribal areas that are “rural” – eliminating eligibility for programs, policies, and funding opportunities for residents who live in “an urbanized area or urban cluster area with a population equal or greater to 50,000;” and

**WHEREAS**, “rural Tribal lands” redefines Tribal lands without Tribal consultation and impedes Tribes' efforts to achieve self-governance and self-determination.; and

**WHEREAS**, the continued use of the “rural Tribal lands” definition is an abrogation of the FCC's federal trust responsibility promulgated without a basis or justification in federal Indian law and policy; and

**WHEREAS**, the FCC’s unilateral decision to remove certain Tribal lands from the ability of Tribal Nations, without consulting with them, also unilaterally removes the authority of Tribal Nations to exercise their power under existing laws to represent and speak on all matters for the welfare of their citizens and to consult with the Federal government on all matters of trust responsibility; and

**WHEREAS**, the “rural Tribal lands” definition is incongruous with the recent Supreme Court ruling in *McGirt v. Oklahoma*, 140 S. Ct. 2452, 207 L. Ed. 2d 985 (2020); and

**WHEREAS**, the inappropriate and legally inconsistent use of “rural Tribal lands” across the FCC's regulatory definitions within the Lifeline Program to the 2.5GHz licensing program to the E-Rate program denies universal digital inclusion of Tribal Nations; and

**WHEREAS**, in 2018, NCAI addressed this issue in the FCC’s Lifeline Program in Resolution #DEN-18-036, Calling on the FCC to Regulate the Tribal Lifeline Program According to its Original Intent, and Adhere to the Administrative Procedure Act.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) requests the FCC, Congress, and the Administration discontinue the arbitrary and capricious use of “rural” as a qualifier of “Tribal lands” in regards to programs, policies, and funding opportunities; and

**BE IT FURTHER RESOLVED**, that the FCC’s use of its “rural Tribal lands” definition is an ongoing abrogation of the federal trust responsibility, ignores the FCC’s own Tribal Policy Statement (FCC 00-207), and is an affront to Tribal sovereignty and self-determination; and

**BE IT FURTHER RESOLVED**, that the National Congress of American Indians (NCAI) calls upon the FCC to utilize the definition of Tribal Lands found in the Consolidated Appropriations Act, 2021 at Section 905(a)(13), through an expedited proceeding which must include Tribal consultation; and

**BE IT FINALLY 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 2021 Mid Year Conference of the National Congress of American Indians, held June 20, 2021 - June 24, 2021, with a quorum present.



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Fawn Sharp, President

**ATTEST:**



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Juana Majel Dixon, Recording Secretary