

NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution # MKE-11-007



TITLE: In Support of a Tribal Priority for the Utilization of Spectrum on Tribal Lands

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, the 1996 Telecommunications Act provides for telecommunications infrastructure and information technology to be developed and utilized in a manner that meets the social, civic, economic, educational, and cultural needs of American Indians and Alaska Natives; and

WHEREAS, while competitive market forces have spurred robust wireless communications services in many areas, connectivity on tribal lands remains at significantly lower levels necessitating robust ‘tribal centric’ build out comparable to the national average; and

WHEREAS, NCAI supports the establishment of a tribal priority, similar to the current 307(b) tribal priority for broadcast licenses, for the licensing of fixed and mobile wireless telecommunications services, and ensuring its availability to qualifying tribal entities that provide service to unserved or underserved tribal lands, when such lands are within the geographic area covered by an unallocated Wireless Radio Services license; and

WHEREAS, NCAI supports increased ‘tribal-centric’ build out requirements for carriers, including tribally operated providers of first resort or tribal joint ventures based on consultation with tribes; and

WHEREAS, NCAI supports a tribal licensing priority for tribal governments, tribal consortia, and entities that are more than 50% owned and controlled by a tribe(s). This is consistent with FCC rules governing the tribal priority in the broadcast radio licensing context, and the legal foundation for providing opportunities to tribes for access to spectrum is based on the federal government’s trust relationship with tribal governments; and

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WHEREAS, tribal governments, residents, and first responders have critical communications needs that remain unmet; carriers maintain a stronghold on wireless telecommunications licenses and have failed to meet these tribal needs.

THEREFORE BE IT RESOLVED, the NCAI strongly supports FCC rule modifications requiring carriers to immediately engage with tribal governments and either divest themselves of their FCC licenses over tribal areas or provide services to tribal lands within on a mutually agreed deployment schedule; and

BE IT FURTHER RESOLVED, the NCAI urges the FCC to support tribal efforts to use spectrum services and allocations on tribal lands should be managed in deliberated consultation with tribal governments on deployment of services, rights of way, business and tribal regulatory permissions, and tribal governments should be a part of the licensing approval and renewal process for non-tribal licenses; and

BE IT FURTHER RESOLVED, that the FCC must provide as much and sufficient spectrum to meet the public needs of Native communities. As a matter of sovereignty and trust responsibility, such vital spectrum should be provided free to Native communities. Tribal service areas should be a single service area for the entire community. If there needs to be payment for spectrum licensing, then Native governments should be given the priority to serve themselves with reserve costs calibrated (and thus, the first right of refusal for license ownership); and

BE IT FURTHER RESOLVED, that NCAI urges all spectrum policy impacting Native communities be deliberated in consultation with tribal governments; and

BE IT FURTHER RESOLVED, that the NCAI urges termination of the existing tribal bidding credit program and any reformed tribal bidding credit or tribal priority program must have the two key components: 1) such program or priority must result in tribes actually attaining licensing in their communities; and, 2) that every Native community and tribal government be able to use spectrum over their lands or communities for public interest needs; and

BE IT FURTHER RESOLVED, that the NCAI supports the establishment of a Tribal Priority for licensing Wireless Radio Services, thereby expanding the current tribal radio broadcast licensing priority and creating opportunities for access to unlicensed or unallocated Wireless Radio Services licenses to increase access to communications services; and

BE IT FURTHER RESOLVED, that the NCAI supports ensuring that this new tribal priority be available to qualifying tribal entities for spectrum access, and a qualifying tribal entity for these purposes would be an entity designated by the tribal government(s) having jurisdiction over particular tribal land for which the spectrum access is sought, or the tribal government(s) for a tribe residing in a single identifiable geographic unserved area; and

BE IT FURTHER RESOLVED that the NCAI supports the FCC requiring new licensees to consult with tribal governments for deployment of services over tribal lands and to build or divest a geographic area covering unserved or underserved Tribal lands within its license area within three years of receipt of a construction permit from the FCC, thereby promoting the availability of services to residents in the affected tribal areas within a reasonable length of time and to compel current licensees to immediately consult with tribal governments and either divest themselves of their FCC licenses over tribal areas or provide services to tribal lands within a mutually agreed deployment schedule; and,

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

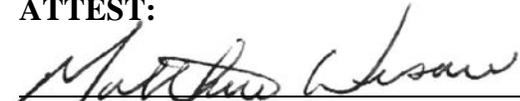
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2011 Mid-Year Session of the National Congress of American Indians, held at the Frontier Airlines Center in Milwaukee, WI on June 13-16, 2011, with a quorum present.



President

ATTEST:



Recording Secretary