

**Written Statement of
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**Before the
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**“Deficit Reduction and Job Creation:
Regulatory Reform in Indian Country”**

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Chairman Akaka, Vice Chairman Barrasso, and Members of the Committee, hesci, aloha, and thank you for the opportunity to testify today about the importance of broadband infrastructures to the economic opportunities for Tribal Nations and Native Communities, and the Commission’s efforts to work with Native leaders to deploy broadband and other services.

In October, I told the Committee that the lack of all communications services in Indian Country is alarming. Our most recent reliable census data indicates that over 70 years of development and expansion of the telecommunications industry has resulted in only a 67.9 percent basic telephone service penetration rate. I shared that the statistics for broadband penetration are even more troubling -- less than 10 percent of residents on Tribal lands have access to the lifeblood of our 21st century economy, educational opportunities, health care, and public safety. Behind these too familiar statistics lurks a stark and complex reality. A consequence of the unfortunate history that Indian Country has endured is an endemic lack of many critical infrastructures in Tribal and Native communities.

It is especially important, in the context of this hearing, to reiterate certain key points. Virtually no critical infrastructure has come to Tribal lands without federal investment, oversight, and regulation. There are numerous and comprehensive communications needs

throughout Indian Country, and there is great diversity within those critical needs. It is clear that “one size fits none.” Broadband, the most critical 21st century infrastructure, is the predicate to thriving communities and an environment of economic opportunity. That is, broadband enables the provision of quality health care, education, public safety, and jobs. Broadband can also empower the opportunities of hope, by keeping young and old generations connected in community culture. Perhaps most importantly, broadband must be available, accessible, and affordable to meet its great promise for Tribal Nations and Native Communities. We have heard these key points directly from Tribal leaders throughout Native America.

Broadband Deployment and Economic Opportunities in Indian Country

On many occasions, we have spoken at length with Tribal leaders from across the country about the inter-related nature of broadband deployment, overall community well-being, and economic development. We have spoken with Tribal Nations with small, fragile, or unstable economies. We have also spoken with those who have stable, but undiversified economies, and those with diverse economies with broad capabilities. We have engaged in discussions that have led us to a better understanding of some of the greatest challenges facing Tribal leaders.

We have been told many times that Tribal Nations cannot develop the potential of their economies and communities without the proper tools, and that the tool of broadband must be more affordable and accessible. The term “economic development” raises many different viewpoints and opinions. Most importantly, broadband has become the linchpin to creating the stability within a community that fosters the opportunities for economic empowerment.

Some Tribes have posited that “economic development” means merely chasing the dollars, or simply looking for that next contract or sales opportunity. They explain how, as a Washington buzz-word, “economic development” connotes a short-term fix approach and not a

true lasting solution. Tribal Nations have also explained that the development of their economies is more appropriately approached through efforts to create opportunities for economic empowerment by building systems of governance that engage industries, demonstrate stability, and encourage the deployment of services. Economic opportunities germinate and grow in a safe, educated, and healthy environment. Workforces can be educated or trained and recruited at a distance with broadband. Healthcare and public safety services supported by robust broadband networks provide the stability that outside corporate partners seek when looking to locate or partner in Tribal communities. When research is available and marketplaces accessible online, goods and services can be brought to the global buyer. Along with industries, Tribal Nations can be potent partners in strategic development through certain opportunities based on their sovereign status. As a federal economic regulatory agency, the Commission is engaged in efforts throughout the agency to create opportunities for just such Tribal government engagement. In sum, broadband infrastructures that are deployed to engage all the needs of a Native community – “Tribal-centric” deployment – are investments that have a much greater chance to see successful returns and ultimate profitability.

In our work with Tribal leaders, we have heard many priorities and concerns, including those associated with broadband speed and reliability. Common priorities include the ability of Tribal entities to become their own regulated service providers in the future and to access new opportunities in mobile services. A major concern is the accurate measurement of the actual state of broadband availability on Tribal lands. Many Tribal and Native community leaders have articulated concerns about both the depth and accuracy of the data on the state of services on their lands. They have asked how this data is verified by the state and federal agencies involved in the field. This Committee articulated this same concern in October. While attending the late

September Native American Summit in Salt Lake City, we witnessed representatives of the Goshute Confederated Tribes explain to the Utah state broadband mapping manager that the gross overestimation of wireless broadband coverage on the Goshute Reservation actually precluded the Tribe from applying for federal grants and loans for a Tribal project that would address the lack of services. The Utah state broadband mapping coordinator explained that the federal grant did not have funding to verify the data. Increased coordination among the relevant federal agencies and the meaningful involvement of Native Nations, embracing them as partners, would begin to address these unintended consequences and barriers.

Tribal Engagement as a Critical Component to Broadband Deployment

In October, and this past April while before the Senate Commerce Committee, I explained the purposes of the Office of Native Affairs and Policy. Our work with Tribal Nations is a new strategic partnership, one in which we effectuate and exercise the trust relationship that the Commission shares with Tribal Nations. The enormity of our mission is vast. Changing our rules alone is not enough. Complex problems require new approaches and mechanisms, and active efforts both in Washington and far into the field, to develop and coordinate well thought-out solutions. Our approach is to work together to identify and remove barriers to solutions and build models with Tribal Nations that engage their core community or anchor institutions. As Tribes govern with a unique understanding of their communities, their vested and active involvement is critically important to finding lasting solutions in their communities. We seek to place Native Nations themselves in the center of those solutions, whether it is through actual self-provisioning of communications services or through new “Tribal-centric” methods of engagement and deployment with industry, public, or private partners. These models must respect the cultural values and sovereign priorities of Tribal Nations and be infused with the

local knowledge that will lead to better opportunities for successful deployment in Native communities.

The Office is responsible for developing and driving a Tribal agenda at the Commission and serves as the Commission's primary point of contact on all Native issues. To fulfill our mission and transform the communications landscape, our work as an Office cannot be as just another outsider from Washington. Instead, the Office must be a knowledgeable and respected Indian Country *insider*. We must foster an expert understanding and familiarity with Native America and maintain a firsthand view of the complexity of the problems. Within our first five quarters of operations, we met with Tribal leaders in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, and Washington, as well as within the Hawaiian Home Lands. We went to some of the most unserved areas of the Nation. Other remote and underserved areas, including those within Alaska, are at the top of our future travel priorities. We will continue to go deep into the Native Nations, meeting collectively and individually with Tribal leaders, Tribal Councils, Native associations, Tribally-owned and operated communications providers, Tribal broadcasters and broadband providers, as well as with Native consumers and businesses.

We logged thousands of miles and traveled to places where the Commission has never been before, experiencing the lack of connectivity from the other end of the digital divide, and seeking the input of American Indian, Alaska Native, and Native Hawaiian leaders. In Native Communities, one sees the human side of the lack of communications and broadband services, and the limitations of connectivity, speed, and reliability. We have visited some of the most remote schools in the country, engaging in distance education discussions from classrooms at the *Native* end of the signals. Also at the *Native* end of the line, we experienced the concerns raised

by lower speed and lower resolution internet connections while sitting alongside an oncology patient in her telemedicine distance diagnosis session. On many occasions, we saw impressive solutions juxtaposed with overwhelming needs and challenges.

The Commission's Priorities on Tribal Lands in 2011 and Beyond

Under Chairman Genachowski's leadership, and with the involvement of the entire Commission and all of its Bureaus and Offices, the Commission has launched a number of groundbreaking rulemaking proceedings with Tribal engagement and inclusion at their very core. From rules reforming universal service and expanding broadcast opportunities, to proposed rules for new mobile wireless licensing opportunities, to an omnibus inquiry on a range of issues related to broadband adoption and deployment on Tribal lands, these proceedings will in part serve as the foundation for the engagement of Native Nations that is critical to the deployment of communications infrastructure and the resulting availability of broadband and advanced communications services on Tribal lands.

The Connect America Fund Order and Further Notice of Proposed Rulemaking. On October 27th, the Commission comprehensively reformed the universal service and intercarrier compensation systems by creating a new Connect America Fund. For the first time, meaningful engagement with Tribal governments will be required of all carriers providing voice and broadband services on Tribal lands, including both communications providers currently providing service and those contemplating the provision of service on Tribal lands. Engagement must include, for example, a needs assessment and deployment planning with a focus on Tribal community anchor institutions, and feasibility and sustainability planning. Also for the first time, the Connect America Fund will secure universal service support for mobility directly, rather than as a side effect of the competitive eligible telecommunications carrier (ETC) system,

by the establishment of a Mobility Fund and a Tribal Mobility Fund. Phase I of the Mobility Fund will provide \$300 million in one-time support, with an additional \$50 million allocated to the Tribal Mobility Fund. Phase II of the Mobility Fund will provide ongoing, recurring support for mobile service, with an annual budget of \$500 million, of which up to \$100 million will be designated annually for the Tribal Mobility Fund. Carriers seeking to serve Tribal lands may participate in both phases of the general Mobility Fund and the Tribal Mobility Fund. In addition, Tribally-owned or controlled providers seeking general or Tribal Mobility Fund Phase I support for the purpose of providing service on Tribal lands will receive a 25 percent bidding credit, thus increasing the likelihood that Tribally-owned or controlled entities will receive funding and creating an atmosphere conducive to Tribal economic opportunity and development.

The Wireless Spectrum Tribal Lands Notice of Proposed Rulemaking. If Tribally-owned or controlled entities are to realize the benefits of the general Mobility Fund and the Tribal Mobility Fund, Tribal governments must have access to robust wireless spectrum. Native Nations have asked the Commission for greater access to such spectrum to meet the challenges of terrain and distance that many Native communities face and, for some time now, the need for this action has been critical. On March 3rd, the Commission adopted a Notice of Proposed Rulemaking (NPRM) to promote greater use of spectrum to help close the communications gap on Tribal lands and to ensure that Native governments are at the center of the decision-making process. This NPRM, one of the most important requests from Native Nations in the last decade, strives to put licenses in the hands of those who will value the spectrum and build out on Tribal lands. Three of the five proposals launched in the NPRM would create new opportunities for Native Nations to gain access to spectrum through Commercial Mobile Radio Services licenses,

while the other two proposals are designed to create new incentives for existing licensees to deploy wireless services. This proceeding is pending at the Commission.

The Rural Radio Tribal Priority Order. Tribal governments want to provide information and community news to their people, and are looking at radio programming to promote and preserve Native culture and language, and to advance cultural dialogue. KUYI on the Hopi Reservation, KLND on the Standing Rock Reservation, KIDE on the Hoopa Valley Reservation, and KWSO on the Confederated Tribes of Warm Springs Reservation are prime examples of such cultural enterprise. Last year, the Commission took steps to address the imbalance in the number of radio stations licensed to Native Nations and communities, as compared to the rest of the country, when it adopted an historic Tribal Priority designed to award a decisive preference to any federally recognized American Indian Tribe or Alaska Native Village seeking to establish its first *non-commercial* radio station on its Tribal lands. The Tribal Priority was greeted with enthusiasm by Tribal governments, but it was noted that certain Native Nations, because of their historical or geographic circumstances, might not be able to take advantage of the priority. In a Second Report and Order adopted on March 3rd, the Commission addressed these special circumstances by adopting provisions to address the needs of non-landed Native Nations and those with small or irregularly shaped lands that make it difficult to meet some of the requirements of the Tribal Priority. In addition, the Commission adopted a Notice of Proposed Rulemaking seeking comment on proposals to apply the Tribal Priority to certain *commercial* FM channel allotments and potentially obviating the need to go to auction. An order in this proceeding is currently on circulation at the Commission, and the hope is that these new mechanisms can help Native Nations deploy services in this critical and widely adopted media technology, as they also build designs and resources for new advanced broadband platforms.

The Native Nations Notice of Inquiry. The Commission has said on many occasions that broadband is indispensable infrastructure for economic growth and job creation, and nowhere is that need more acutely felt than on Tribal lands. The lack of robust broadband services – and, in fact, even basic communications services – contributes to the challenges Native Nations face in building strong economies with diverse businesses and development projects. On March 3rd, therefore, the Commission launched a broad-based inquiry into a wide range of communications issues facing Native Nations – an inquiry that will provide a foundation for updating the Commission’s rules and policies to provide greater economic, market entry, and communications adoption opportunities and incentives for Native Nations. The result of a broad collaborative effort across the Commission, led by the Office of Native Affairs and Policy, the Notice will lay the groundwork for policies that can help Native Nations build economic and educational opportunities for their own Tribal lands. The Notice seeks comment on the best ways to support sustainable broadband deployment, adoption, and digital literacy training on Tribal lands. Among other important questions, the Commission asks about the possibility of expanding the Tribal Priority concept into a Native Nations Priority, to identify and remove barriers to entry, rather than using a case-by-case waiver approach, thus making it easier for Native Nations to provide other services – wireless, wireline, and satellite – to their communities. The Commission also asks about opportunities to use communications services to help Native Nations address public safety challenges on Tribal lands, including the broad lack of 911 and E-911 services, and the needs of persons with disabilities on Tribal lands.

Recognizing that, given their unique challenges and significant obstacles to broadband deployment, Native Nations need substantially greater financial support than is presently available, the Notice of Inquiry also seeks comment on a recommendation of the National

Broadband Plan to establish a Native Nations Broadband Fund. The National Broadband Plan notes that grants from a new Native Nations Broadband Fund could be used for a variety of purposes, including bringing high-capacity connectivity to governmental headquarters or other anchor institutions, deployment planning, infrastructure build out, feasibility studies, technical assistance, business plan development and implementation, digital literacy, and outreach. In the Notice of Inquiry, the Commission seeks comment on a number of issues associated with the establishment of the Native Nations Broadband Fund, including the need for such a fund, the purposes for which it would be used, and the level of funding. The public comment period for the Notice has ended, and we are in the process of assessing the record and determining next steps for each of the issues addressed in the Notice.

The Low-Income Program Notice of Proposed Rulemaking. The Commission has long recognized the unique and dire economic circumstances many Tribal Nations and Native Communities face and has sought to alleviate the issue of affordability through the Lifeline and Link Up programs of the universal service fund. But with a telephone penetration rate hovering below 70 percent and a broadband penetration rate well below ten percent, much remains to be done. According to Gila River Telecommunications, Inc., a Tribally-owned telecommunications company, the telephone penetration rate for the Gila River Indian Community stands at 86 percent, still well below the national average of 98 percent but significantly above the average on Tribal lands. Gila River attributes its success in expanding the reach of telephone service largely to Lifeline, given that roughly 91 percent of the Community's elders participate in Lifeline. On March 3rd, the Commission adopted a Notice of Proposed Rulemaking in which it proposes to reform and modernize Lifeline and Link Up – issues of great interest to Native Nations. The

Commission is preparing to take action in the near future to address many of the issues raised in the Notice of Proposed Rulemaking.

The FCC-Native Nations Broadband Task Force. One of the top requests from Native Nations in the National Broadband Plan was the creation of a new FCC-Native Nations Broadband Task Force that would ensure that the Commission's consultation with Native Nations is an ongoing, continuous dialogue and a shared effort between partners. Chairman Genachowski fulfilled this request when, on March 3rd, he appointed to the Task Force 19 members representing Native Nations and 11 members representing Bureaus and Offices across the Commission. The Task Force will ensure that Native concerns are considered in all relevant Commission proceedings and will work to develop additional recommendations for promoting broadband deployment and adoption on Tribal lands.

A New Federal Interagency Tribal Broadband Working Group. The Office will also coordinate a new federal interagency broadband working group that we will initiate by the end of this year. This interagency working group will coordinate both internally and directly with Tribal Nations, the Task Force, and other Native Community institutions on broadband-related policies and programs. The working group will be comprised of representatives from other federal agencies concerned with Tribal Nations and Native Communities with missions on related to broadband and communications deployment, such as education, health, public safety, energy, cultural preservation, and economic empowerment.

Conclusion

All of these efforts will culminate in more efficient ways of working with our Tribal Nation and Native Community partners, the industries, and the institutions of Indian Country. We have heard several recurring themes in our conversations with Native leaders – continue to

meet with us, listen to us, and use what we tell you to bring communications on Tribal lands into the 21st century. One of our remaining top priorities is to overhaul, update, and increase the collaborative value of the Commission's Indian Telecom Initiatives, or ITI program. We look forward to increasing the effectiveness and value of these regional workshops, trainings, consultation, and networking events. We also look forward to infusing this program with the new prerogatives of Tribal engagement and economic empowerment.

The overarching message we hear from Tribal leaders is that if consultations are to be successful, and if efforts to inform, educate, and put Tribal Nations at the center of the decision-making process are to succeed, we must do our work largely within their communities. Tribal leaders have told us that, in order to best help them solve communications problems, we must work with them where the problems exist, see the problems first-hand, help them engage with government and industry institutions, and endeavor to find the solutions in concert with them. We welcome all of these opportunities.

Mvto, mahalo, and thank you again for the opportunity to testify this afternoon. I look forward to answering any questions you may have.