

**Written Statement of
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**“Internet Infrastructure in Native Communities:
Equal Access to E-Commerce, Jobs and the Global Marketplace”**

**United States Senate Committee on Indian Affairs
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Chairman Akaka, Vice Chairman Barrasso, and Members of the Committee, thank you for the opportunity to testify today about the importance of broadband infrastructures in Native Nations and Communities, and the Commission’s efforts to work with Native leaders to find viable solutions.

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 67.9 percent of residents of Tribal lands enjoying basic telephone service. The statistics for broadband penetration are even more troubling -- less than 10 percent of residents of Native Nations have access to the lifeblood of our 21st century economy, educational opportunities, health care, and public safety.

This past April, I told the Senate Commerce Committee what many on the Senate Committee on Indian Affairs already know -- that these too familiar statistics paint only part of the picture and behind them lurks a stark and complex reality. The negative impacts of history fell particularly hard on Tribal and Native Communities. One result of this history is an endemic lack of many critical infrastructures. In fact, almost no critical infrastructure has come to Tribal lands without federal investment, oversight, and regulation. Broadband opportunities can do much to level this history in bringing health care, education, jobs, and the opportunities of hope

to Native Nations, but broadband must be available, accessible, and affordable to meet its great promise.

The purpose of the Office of Native Affairs and Policy is to change the approach to the communications problems of Native America. Our work with Native Nations is a new strategic partnership, one in which we effectuate and exercise the trust relationship that the Commission shares with Native Nations. There are numerous and comprehensive communications needs throughout Indian Country, and there is great diversity within those critical needs. The need for telemedicine is greatest for some Tribal Nations, while the needs for educational technology or public safety are paramount for others. In many Native places, Indian Reservations for instance, connectivity often occurs only in border towns and along major transportation routes crossing over Tribal lands. It is clear that one size fits none, and 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 in far into the field to develop and coordinate well thought-out solutions.

Created by a unanimous vote of the Commission on August 12, 2010 and implementing a recommendation of the National Broadband Plan, the Office of Native Affairs and Policy is now just over a year old. 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. The Office is charged with bringing the benefits of a modern communications infrastructure to all Native communities by, among other things, ensuring robust government-to-government consultation with Federally-recognized Tribal governments and other Native organizations; working with Commissioners, Bureaus, and Offices, as well as with other government agencies and private organizations, to develop and implement policies for assisting Native communities;

and ensuring that Native concerns and voices are considered in all relevant Commission proceedings and initiatives. Under Chairman Genachowski's leadership, and with the involvement of the entire Commission and all of its Bureaus and Offices, there is a new way of doing Native business at the Commission, and Native Nations are central in that new paradigm.

The Efforts of the Office of Native Affairs and Policy

Our approach is to work together to identify and remove barriers to solutions and build models with Native Nations that engage their core community or anchor institutions. 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" or "Native-centric" methods of deployment with industry, public, or private partners. These models must respect the cultural values and sovereign priorities of Native communities and be infused with the local knowledge that will lead to better local involvement and opportunities for success. 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.

To fulfill its mission, the Office is fostering the Commission's ongoing government-to-government dialogue with Native Nations by working directly with them to understand their needs and empower them to provide their own solutions. New opportunities must be created for Native Nations and those who work with them to find sustainable solutions. To fulfill our mission and transform the communications landscape, our Office cannot be just another outsider from Washington. Instead, the Office must be a knowledgeable and respected Indian Country *insider*. We must foster and maintain an expert understanding and familiarity with Tribal lands and Native Communities. Collectively, our four senior staff members have over 40 years of

experience working in the trenches of the Commission and directly with Native Nations. We are adding to those ranks and we stand ready for the challenge.

One year ago, immediately upon being established, we hit the ground running. We actually rolled out the introduction of our new Office in Native America on a “listening tour,” while at the same time working across the Commission to surface actions and proposals. We have continued with our commitment to working with Native leaders in their own reservations and homelands, where the problems actually exist. Side-by-side with our Native Nation colleagues, we have “kicked the dirt” within numerous Native Nations, and discussed how we can help them with their development and deployment plans. Several times, we have had to reset our phones and blackberries, log off and log back in, and set our out-of-office automatic reply messages to let folks know we are traveling in very unconnected regions.

Within our first year of operations, we traveled to and met with Tribal leaders in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington, as well as within Hawaiian Home Lands. Other remote and underserved areas of the country, including those within Alaska, are at the top of our future travel priorities. 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. 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.

To obtain a firsthand view of the complexity of the problems, we have been to some of the most unserved areas of the Nation. To see the challenges Native Nations face, we visited

some of the most remote schools in the country, such as the Jack Norton School on the Yurok Reservation in California, which is the only school in the state that still operates on a diesel generator. The school is planned to receive its first ever internet service in a new build out based on an experimental license the Commission granted and one-time federal grant money from the Rural Utilities Service's Community Connect program. We learned more about the important and life-changing impact of broadband when we engaged in distance education discussions from classrooms at the *Native* end of the signals. We learned the true value of high speed internet connections on the island of Moloka'i, where we accepted the gracious invitation of an oncology patient at the *Native* end of the line and sat in on her diagnosis session with her doctors in Honolulu. Hearing the somber diagnosis, like her, we too struggled to read the expressions on the doctors' faces with the lower speed and, therefore, lower resolution connection. In Native Communities, one sees the human element of the lack of communications and broadband services, and the limitations of connectivity, speed, and reliability.

On many occasions we saw impressive solutions juxtaposed with overwhelming great need. For example, on the Cheyenne River Sioux Reservation, we saw the oldest Tribally-owned and operated wireline telecommunications company, the Cheyenne River Sioux Tribe Telephone Authority, deploying fiber to a remote internal valley in their lands. At the Standing Rock Sioux Tribe, we met with their leaders and the management of the Tribe's exciting new wireless company, Standing Rock Telecom, Inc. Two weeks later, we spoke with elected leaders and educators of the Karuk Tribe in the upriver region of the Klamath River in far northern California, who experience little or no wireline or wireless telephone connectivity on their lands. High speed internet is available only at a local computer center. While in Utah some weeks earlier, we met with the leaders of the Confederated Tribes of the Goshute Indian Reservation,

who explained that they have been operating for over eight years under a communications state-of-emergency articulated by their Tribal Council--with few comprehensive and immediate solutions in sight. Similar examples exist throughout Indian Country and Native Communities.

In addition to our travels to Tribal lands, we have met with many dozen Native Nations and entities at the Commission's headquarters on a myriad of issues involving broadband, broadcast, and telephony matters. On both our travels and in Washington, we have heard many common priorities and concerns. One such priority is the accurate measurement of the actual state of broadband availability on Tribal lands. Many Tribes have articulated concerns about both the depth and accuracy of the data on the state of services on their lands. Tribal and Native community leaders have asked how this data is verified by the state and federal agencies involved.

In the case of the Goshute Confederated Tribes, during the late September Native American Summit in Salt Lake City, we witnessed their explanation to the Utah state broadband mapping manager that the gross overestimation of the wireless broadband coverage on their reservation actually precluded them 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 a meaningful involvement of the Native Nations, embracing them as partners, would begin to address these unintended barriers-to-entry.

The Proceedings of March 3, 2011 -- "Native Nations Day" -- New Commission Approaches

Under the Chairman's leadership, the Commission launched a series of groundbreaking endeavors at its March 3rd Open Meeting, on a day the Commission named "Native Nations Day." It was a day of "firsts"-- the first time that the Commission used its meeting agenda to

address matters entirely and specifically developed for Native Nations; the first time that Tribal leaders formally addressed the Commission at the start of an Open Meeting; and the first time that the Commission initiated a comprehensive inquiry and rulemaking proceeding focused exclusively on Native communications needs.

From rules 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, the proceedings of Native Nations Day will in part serve as the foundation for the nation-to-nation consultation with Native Nations that is a critical component of the Commission's rulemaking process.

The Rural Radio Tribal Priority Order. Native Nations 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, and KIDE on the Hoopa Valley 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 Native Nations, 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 Native Nations Day, 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. This proceeding is pending 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 Wireless Spectrum Tribal Lands Notice of Proposed Rulemaking. While competitive market forces have spurred robust wireless communications services in many areas of our country, wireless connectivity for Native Nations remains at significantly lower levels. Native Nations have expressed to us many concerns that the situations they face at home involve the very basics of public safety – the inability to make a wireless call in an emergency. Native Nations have asked the Commission for greater access to robust wireless 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 Native Nations Day, the Commission adopted a Notice of Proposed Rulemaking to promote greater use of spectrum to help close the communications gap on Tribal lands and to ensure that Native Nations 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. This proceeding is pending at the Commission. 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.

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 Native Nations Day, 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 adopted on Native Nations Day, 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 recently 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 Low-Income program of the universal service fund, commonly known as Lifeline and Link Up, has been, and continues to be, a critically important component in extending the reach of communications services to Native Nations. 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. At the afternoon session of its March 3rd Open Meeting, 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.

Universal Service Reform—The Connect America Fund and The Mobility Fund. As part of a major rulemaking procedure, the Commission is preparing in the very near future to reform and modernize the High Cost component of the universal service fund, with a proposed transition to a Connect America Fund, including a Mobility Fund. The Office of Native Affairs and Policy is working closely with the Wireline Competition Bureau and the Wireless Telecommunications Bureau to finalize policies that will increase broadband availability—including mobile broadband—in Native Nations, while preserving existing services. In finalizing reforms, we are focused on the unique challenges facing Native Nations, which may not be suitable for a one-size-fits-all solution.

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 Native Nations Day, he appointed to the Task Force 19 members representing Native Nations and 11 members representing Bureaus and Offices across the Commission. The Task Force has met twice since its inception – once via conference call and once in person – and is formulating plans to meet again in the near term. 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. The Task Force will also coordinate with external entities, including

other federal departments and agencies. These efforts will culminate in more efficient ways of working with our Native Nation partners, the industries, and the institutions of Native Nations.

Conclusion

The Office of Native Affairs and Policy is ready to continue rolling up our sleeves and pulling out our laptops as we continue our mission. Native Nations Day was a success, and the Commission is proud of the work it has done so far. However, we must build on that success and the success of our other activities since the creation of the Office a mere 14 months ago. Among other things, one of our top priorities is to overhaul, update, and increase the collaborative value of the Commission's Indian Telecom Initiatives, or ITI, program, moving it from version 2.0 to version 10.0 and even beyond. We look forward to increasing the effectiveness and value of these regional workshops, trainings, consultation, and networking events. We also look forward to establishing, by the end of the year, a federal interagency broadband working group that engages other federal agencies concerned with Native Nations and with missions on Tribal lands related to broadband and communications deployment, such as education, health, public safety, energy, cultural preservation, and economic empowerment. With a new inter-agency initiative on Native broadband, the federal government can coordinate both internally and directly with Native Nations on broadband-related policies and programs.

Internally, we look forward to working with colleagues across the Commission to increase the value of the information tools that the Commission has for Native Nations and Communities. For example, the Commission's Spectrum Dashboard 2.0, which was unveiled in March, allows users to view the licenses and spectrum leases that cover specific or all Tribal lands. We plan to continue holding meetings with Native Nations to discuss how this and other Commission information tools can be improved and more responsive to the needs of Tribal

communications planners. We also look forward to reviving an internal training and speaker series for decision makers and colleagues across the Commission on how to work with Native Nations and the basics of how to coordinate and conduct consultations with Native Nations.

In conclusion, 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. The overarching message is that, if consultations are to be successful, if future education and training sessions are to be well-attended and productive, and if efforts to inform, educate, and put Native Nations at the center of the decision-making process are to succeed, we must do our work with Native Nations largely within their Native communities. Native Nations are aware of our Office’s abilities and many 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, and endeavor to find the solutions in concert with them. We welcome all of these opportunities.

Thank you again for the opportunity to testify this afternoon. I look forward to answering any questions you may have.