



NEWS

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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FCC TAKES ACTION TO HELP STRENGTHEN AND EXPAND BROADBAND AND OTHER COMMUNICATIONS SERVICES IN NATIVE NATIONS

Washington, DC – The FCC acted today on several regulatory items to strengthen and expand communications services to Native Nations and their communities. The Commission held a Native Nations Day as part of its open meeting with a renewed focus on initiatives that will help expand access to vital communications, including broadband, wireless and radio services in these communities across the United States. The meeting included public presentations from several Native Nation leaders, and afternoon nation-to-nation consultation sessions.

FCC Chairman Julius Genachowski said, “Technology touches every fabric of our society and all Americans should have access to these essential services. Our actions will further empower Native Nations to access and use the latest technologies to grow their businesses, increase their access to quality health care and education, reach 9-1-1 during emergencies, and receive public alerts and warnings.”

“We recognize that action is needed to strengthen and expand broadband and communications services in Native communities,” said Geoffrey Blackwell, Chief of the FCC’s Office of Native Affairs and Policy. “The Commission’s actions will help cultivate partnerships among Native Nations, federal agencies, and broadband and communications providers to deploy these vital services in Native communities. This is a top priority for the Commission.”

The items adopted by the Commission today include:

- A Notice of Inquiry (NOI) on improving communications services for Native Nations that seeks comment on a number of issues, including greater broadband deployment, the need for a uniform definition of Tribal lands to be used agency-wide in rulemakings, and the importance of strengthening the FCC’s nation-to-nation consultation process with Native Nations.
- A Notice of Proposed Rulemaking (NPRM) on ways to expand the efficient use of spectrum over Tribal lands so as to improve access to mobile wireless communications, which will provide consumers with more choices on how they communicate, share information and get their news.
- A Second Report and Order, First Order on Reconsideration, and a Further Notice of Proposed Rulemaking (FNPRM) that will help expand opportunities for Tribal entities to provide broadcast radio services to Native communities.

Action by the Commission March 3, 2011, by NOI (FCC No. 11-30, CG Docket No. 11-41); NPRM (FCC No. 11-29; WT Docket No.11-40); and Second Report and Order, First Order on Reconsideration and FNPRM (FCC No. 11-28, MB Docket No. 09-52). Chairman Genachowski, Commissioners Copps, McDowell, Clyburn and Baker. Separate statements issued by Chairman Genachowski, Commissioners Copps, McDowell, Clyburn and Baker.

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SUMMARY OF ITEMS ADOPTED ON NATIVE NATIONS DAY

Improving Communications Services for Native Nations NOI

The Native Nations NOI seeks comment on a wide range of issues intended to address the 68 percent telephone penetration rate and the less than 10 percent broadband penetration rate on Tribal lands nationwide. These rates lag far behind the country as a whole. The NOI also seeks information on Hawaiian Home Lands. The NOI explores:

- A Native Nations Priority for a wider array of communications services.
- A new Native Nations Broadband Fund -- a National Broadband Plan recommendation -- to support communications deployment-related priorities and needs in Native Nations.
- Sustainable Native Nations deployment models and whether there are specific characteristics and needs within Native Nations that would reveal potential best practices and/or successful techniques for broadband adoption and utilization, as detailed in the National Broadband Plan.
- An agency-wide, uniform definition of Tribal lands, inclusive of the many different types of lands of Native Nations and Hawaiian Home Lands.
- The Eligible Telecommunications Carrier (ETC) designation process on Tribal lands for obtaining universal service support and the related consultative process with Native Nations.
- Specific broadband-based opportunities to address the public safety and interoperability challenges on Tribal lands, such as the broad lack of 911 and E-911 services.
- How to increase efficiencies in the Commission's processes and best practices for cultural preservation and the protection of Native sacred sites in communications tower reviews pursuant to Section 106 of the National Historic Preservation Act.
- Obstacles and specific cost, equipment, and market entry issues related to satellite-based communications services for Native Nations.
- Needs and challenges faced by persons with disabilities on Tribal lands and ways in which to include Native persons with disabilities in all matters critical to providing access to broadband and other communications services on Tribal lands.
- Ways to create effective government-to-government consultation between the Commission and Native Nations, specifically examining the ongoing dialogue needed to contribute to the growth of the work between Native Nations and the Commission.

Native Nations Wireless Spectrum NPRM

The Commission also adopted an NPRM that seeks public comment on proposals that would promote greater use of spectrum over Tribal lands. The NPRM seeks comment on:

- A proposal to expand the current broadcast Tribal Priority to create opportunities for access to wireless radio services licenses not yet assigned.
- A Native Nations originated proposal to create a secondary market negotiation process under which Tribes could work with incumbent wireless licensees to bargain in good faith for access to spectrum over unserved or underserved Tribal lands.
- A Tribal proposal to employ an innovative process to utilize spectrum lying fallow under which either the licensee or the Native Nation could build out facilities to provide service.
- A proposal to provide incentives for licensees to deploy service to Tribal lands by enabling them to use that deployment to help satisfy the construction requirements for licenses.

- A proposal to improve the effectiveness of the Tribal lands bidding credit program, for example, by extending the current 3-year construction deadline and the current 180-day deadline to obtain necessary Native Nation government certification.

Tribal and Rural Radio Orders and FNPRM

The Commission adopted an Order that enhances opportunities for Tribal entities to provide broadcast radio service to Native communities, and modifies certain procedures for the allotment of broadcast radio channels in order to ensure a fair distribution of radio licenses to rural areas and smaller communities as well as urban areas. Last year, the Commission adopted a Tribal Priority that gave precedence to federally recognized American Indian Tribes and Alaska Native Villages seeking to initiate needed radio service covering reservations and other Tribal lands. While there are over 565 Native Nations, many do not possess Tribal lands. Because the Tribal Priority currently requires coverage of Tribal lands, Native Nations without these lands cannot qualify for the priority. Today's order encourages those Native Nations to seek waivers of the Tribal lands coverage provisions of the Tribal Priority. Specifically, the Commission today:

- Adopted a policy for waiving certain requirements in the Tribal Priority in order to allow non-landed Tribes to take advantage of the Tribal Priority to provide radio broadcast services to Native communities.
- Adopted an alternative coverage standard to allow Tribes with small or irregularly shaped lands to take advantage of the Tribal Priority to provide radio broadcast service to their Native communities.
- Modified its procedures for determining which communities should receive priority in the award of new or relocated broadcast radio service. These modifications are designed to ensure a fair distribution of radio service to small, less well-served communities and rural areas as well as urbanized areas.
- Seeks comment on whether the Commission should require, as a threshold qualification to apply for a commercial FM channel allotted pursuant to the Tribal Priority, that an applicant qualify for the Tribal Priority for that channel, as well as seeking further comment on the Tribal Bidding Credit.

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