

STATEMENT OF COMMISSIONER GEOFFREY STARKS

Re: *Partitioning, Disaggregation, and Leasing of Spectrum*, WT Docket No. 19-38

The Duck Valley Indian Reservation is home to the Shoshone Paiute Tribal Nation. It is in an isolated portion of northern Nevada, about 90 miles from the nearest interstate. The reservation is served by a single cell tower, and residents have described needing to drive out of town simply to update their phones.¹ They aren't the only tribal community with a lack of quality wireless service. A 2019 survey by the American Indian Policy Institute found that, even though most tribal respondents relied on their smartphones to access the Internet, more than a third had issues connecting.² According to a recent study from the Federal Reserve Bank of Minneapolis, mobile wireless download speeds are 45 percent slower in tribal areas nationwide than in non-tribal areas.³

This item proposes an Enhanced Competition Incentive Program (ECIP) that would encourage wireless licensees to engage in secondary market transactions with Tribes and small rural carriers to expand and improve wireless service in their communities. It's past time for this type of action. More than 10 years ago, the Commission released a Notice of Proposed Rulemaking acknowledging the lack of high-quality wireless service on Tribal lands, and the complaints from Tribal communities about underutilized spectrum in their areas.⁴ That NPRM proposed measures to encourage secondary market transactions between wireless licensees and Tribes, but the Commission never finalized any rules. Three years ago, the General Accountability Office (GAO) published a report recounting complaints from Tribal entities about their unsuccessful attempts to enter into secondary market transactions with wireless licensees. Those tribes and an industry association told GAO that these transactions often failed to happen simply because the potential financial benefits were outweighed by the potential costs.⁵

Here's one example. Earlier this year, I met with the Red Cliff Tribal Nation, which is located in Northern Wisconsin on the shores of Lake Superior. The Red Cliff tribe has had difficulties in obtaining wireless service even though it sits within the service area of a licensee on the other side of the lake. The licensee has focused its buildout on more populated and prosperous areas and asserts that it would be too costly to extend service to the Red Cliff community. But the Red Cliff tribe says that it has the resources and expertise to build out service on its own – it just needs access to the spectrum. I'm looking forward to hearing from stakeholders about whether the incentives we propose in this item could help address situations like this so we can expand or improve service to communities like the Red Cliff tribe.

Unfortunately, these same incentives could also attract bad actors seeking to exploit the program through sham leases and other abuses. Throughout my career at the Commission and the Justice

¹ NPR, "Lack of Broadband Creates Daily Struggle on Reservation in Northern Nevada," *available at* <https://www.npr.org/2021/09/14/1036584618/infrastructure-series-broadband> (Sept. 14, 2021).

² Brian Howard and Traci Morris, "Tribal Technology Assessment: The State of Internet Service on Tribal Lands," American Indian Policy Institute (July 27, 2019).

³ Federal Reserve Bank of Minneapolis, "Center for Indian Country Development Research Reveals Depth of the Tribal Digital Divide" (September 1, 2021) *available at* <https://www.minneapolisfed.org/article/2021/center-for-indian-country-development-research-reveals-depth-of-tribal-digital-divide>.

⁴ *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, Notice of Proposed Rulemaking, 26 FCC Rcd 2623 (2011).

⁵ U.S. General Accountability Office, *Tribal Broadband: FCC Should Undertake Efforts to Better Promote Tribal Access to Spectrum*, GAO-19-75, at 18 (November 2018).

Department, I've focused on preventing the waste, fraud, and abuse of federal programs. That's why I'm pleased that the item seeks comment how we could prevent and punish such misconduct.

But a program's success isn't measured solely by how well it avoids abuse. Far too often, federal agencies adopt policies without making any subsequent effort to review whether those policies are achieving their objectives. I therefore appreciate that my colleagues have agreed with my suggestion to seek comment on whether we should do a public report on the ECIP's effectiveness five years after the program begins. If ultimately adopted, the ECIP will be a new approach towards encouraging the expansion of high-quality wireless service to all communities. This follow-up report will allow the Commission and the public to assess the program's progress towards that goal.

Thank you to the staff of the Wireless Telecommunications Bureau for their hard work on this item.