

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Establishment of the Office of Native Affairs and)
Policy in the Consumer and Governmental Affairs)
Bureau)

Order

Adopted: July 29, 2010

Released: August 12, 2010

By the Commission: Commissioner Copps issuing a statement

1. To promote the deployment and adoption of communication services and technologies within Native communities and on Tribal lands, the Commission has concluded that the proper dispatch of its business and the public interest will be served by reorganizing the Consumer and Governmental Affairs Bureau (Bureau or CGB) to create an Office of Native Affairs and Policy. This office will be 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.

2. Pursuant to Section 0.141 of the Commission's Rules, the Bureau "develops and administers the Commission's consumer and governmental affairs policies and initiatives to enhance the public's understanding of the Commission's work and to facilitate the Agency's relations with other governmental agencies and organizations."¹ The Bureau's performed functions include: (i) advising and making recommendations to the Commission in matters regarding consumers and governmental affairs, including but not limited to policy development and coordination; and (ii) collaborating with, advising and assisting, the public, state, local and tribal governments, and other governmental agencies on consumer matters.

3. On March 16, 2010, the National Broadband Plan was delivered to Congress. The Plan set forth an agenda for connecting the Nation with the communications network of the future – a robust, affordable Internet. The Plan, entitled "*Connecting America: The National Broadband Plan*," outlined a vision for broadband over the next decade. The Plan included numerous recommendations pertaining to broadband innovation and investment, inclusion and national purposes. Many of these recommendations called for actions by the Commission. In this regard, the Plan's Recommendation 9.14 states, in pertinent part, that:

¹ 47 C.F.R. sec. 0.141.

The Executive Branch, the FCC and Congress should consider making changes to ensure effective coordination and consultation with Tribes on broadband related issues...

- The FCC should increase its commitment to government-to-government coordination with Tribal leaders.
- Congress and the FCC should consider increasing Tribal representation in telecommunications planning.²

4. Specifically, the Plan states that “[t]he FCC should also create an FCC Office of Tribal Affairs to consult regularly with Tribal leaders, to develop and drive a Tribal agenda in coordination with other FCC bureaus and offices and to manage the FCC-Tribal Broadband Task Force.”³ The subsequent Broadband Action Agenda indicated that the Commission would take action to more effectively address Native American issues by establishing, in the second quarter of 2010, “an FCC Office of Native American Affairs with the requisite personnel, resources, and authority to consult regularly with Native American leaders and work with other FCC bureaus and offices, as well as other Federal agencies and departments on policies, programs, and initiatives impacting Native Americans and Native American interests.”⁴

5. Pursuant to the commitment in the Broadband Action Agenda and the spirit of President Obama’s *Memorandum for the Heads of Executive Departments and Agencies on Tribal Consultation* (Nov. 5, 2009), *Executive Order 13175, Consultation and Coordination with Indian Tribal Governments*, (Nov. 9, 2000), and the Commission’s *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, 16 FCC Rcd 4078 (2000), we are establishing an Office of Native Affairs and Policy. This office will serve as the official Commission liaison for ongoing consultation, coordination, and outreach to the American Indian, Alaska Native Village, and other Native communities.⁵

6. The Office of Intergovernmental Affairs (IGA) in CGB currently has some responsibilities for outreach and information exchange on telecom issues with tribal governments. In addition, IGA has responsibility for designing and implementing the Commission’s Indian Telecommunications Initiative. There are no staff-level positions in IGA that are solely or primarily devoted to work with tribal governments. Rather, several positions have aspects of tribal government work. Therefore, although some position descriptions for positions remaining in IGA may have slight modifications to remove some wording referring to tribal issues, no particular positions will be reassigned intact to the new Office of Native Affairs and Policy. There is no adverse impact to any of the remaining titles, series or grades of the IGA staff as a result of the establishment of this new Office.

7. The new Office of Native Affairs and Policy will assume those duties already performed in IGA, but will expand far beyond the current objectives. The new Office will have a relatively small staff but it will focus primarily on the areas identified in the new functional statement.

8. The Bureau will staff the new Office of Native Affairs and Policy through the appointment of an Office Chief. The Bureau has not yet determined how the six remaining proposed

² Broadband Plan at 184 (<http://www.broadband.gov/plan/>).

³ Id.

⁴ Broadband Action Agenda, FCC News Release, April 8, 2010 (item 37).

⁵ As a direct result of this action, the functions of the Bureau’s Office of Intergovernmental Affairs would be revised to no longer include responsibilities and duties pertaining to and impacting tribal governments.

positions will be staffed, but it is anticipated that it will be through reassignments or internal recruitment. The Associate Managing Director for Human Resources Management has reviewed this reorganization and foresees no adverse impact. Commission management has met applicable requirements under Title VII of the Civil Service Reform Act (5 U.S.C. 7101 et seq.) to provide the employees' exclusive representative reasonable advance notice of the reorganization and an opportunity to initiate negotiations on appropriate matters. Final personnel actions are subject to classification review and civil service rules and regulations.

9. Authority for the adoption of the foregoing reorganization is contained in Sections 4(i), 4(j), 5(b), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §154(i), 154(j), 155(b), and 155(c).

10. The amendments adopted herein pertain to agency organization, procedure and practice. Consequently, the notice and comment provisions of the Administrative Procedure Act contained in 5 U.S.C. §553(b) are inapplicable.

11. This reorganization will not become effective until clearance has been obtained as required by the annual Appropriations Bill.

12. ACCORDINGLY, IT IS ORDERED that the Consumer and Governmental Affairs Bureau is reorganized to establish the Office of Native Affairs and Policy. This action is TO BE EFFECTIVE upon the approval of this action by the Appropriations Committees of the United States Senate and House of Representatives.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *Establishment of the Office of Native Affairs and Policy in the Consumer and Governmental Affairs Bureau, Order*

This is a day I have long hoped and worked for. The opening of an Office of Native Affairs and Policy to serve Federally-recognized Tribes and other Native organizations is one of the central objectives announced in the National Broadband Plan. The hard work—and I mean *really* hard work—is still ahead of us. I have seen first-hand the unacceptable state of communications throughout much of Indian Country. In so many places where Native Americans live, poverty endures, unemployment is at levels no society should tolerate, education languishes, and basic public safety falls far short of what people have a right to expect. Too many promises have gone unfulfilled, too many grand pronouncements have fallen by the wayside, over generations of our history. Now is the time to redeem those promises, building a trust relationship and using the revolutionary state-of-the-art technologies available to us to make all Americans the beneficiaries of Twenty-first century opportunity and a more fully-shared democracy. I believe we can make it happen.