



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #TUL-05-041

TITLE: Guidelines for Tribal Telecommunications Public Policy Discourse

EXECUTIVE COMMITTEE

PRESIDENT

Joe A. Garcia
Ohkay Owingeh
(Pueblo of San Juan)

FIRST VICE-PRESIDENT

Jefferson Keel
Chickasaw Nation

RECORDING SECRETARY

Juana Majel
Pauma-Yuima Band of Mission Indians

TREASURER

W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA

Mike Williams
Yupiaq

EASTERN OKLAHOMA

Joe Grayson, Jr.
Cherokee Nation

GREAT PLAINS

Mark Allen
Flandreau Santee Sioux

MIDWEST

Robert Chicks
Stockbridge-Munsee

NORTHEAST

Randy Noka
Narragansett

NORTHWEST

Ernie Stensgar
Coeur d'Alene Tribe

PACIFIC

Cheryl Seidner
Wiyot

ROCKY MOUNTAIN

Raymond Parker
Chippewa-Cree Business Committee

SOUTHEAST

Leon Jacobs
Lumbee Tribe

SOUTHERN PLAINS

Steve Johnson
Absentee Shawnee

SOUTHWEST

Manuel Heart
Ute Mountain Ute Tribe

WESTERN

Kathleen Kitcheyan
San Carlos Apache

EXECUTIVE DIRECTOR

Jacqueline Johnson
Tlingit

NCAI HEADQUARTERS

1301 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, NCAI recognizes the need to create a framework and guidelines for tribal governments, Alaskan Native communities, intertribal organizations, and American Indian and Alaskan Native organizations to prepare, plan and make recommendations for telecommunications and information technology policy, legislation, appropriations, and program development; and

WHEREAS, NCAI has a vision to establish equitable, affordable, and universal access to telecommunications services - including broadband services - and information technology equipment and services on tribal lands and American Indian and Alaskan Native communities by the year 2010; and

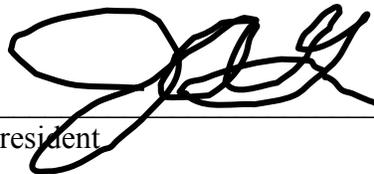
WHEREAS, NCAI has a mission to ensure that telecommunications and information technology are developed and utilized in a manner that meets the social, civic, economic, educational, and cultural needs of tribes, American Indian and Alaskan Native communities.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby adopt the attached Guidelines for Tribal Telecommunications Public Policy Discourse, as amended; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

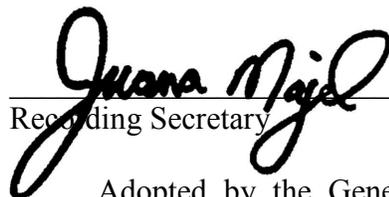
CERTIFICATION

The foregoing resolution was adopted at the 2005 Annual Session of the National Congress of American Indians, held at the 62nd Annual Convention in Tulsa, Oklahoma on November 4, 2005 with a quorum present.



President

ATTEST:



Recording Secretary

Adopted by the General Assembly during the 2005 Annual Session of the National Congress of American Indians held from October 30, 2005 to November 4, 2005 at the Convention Center in Tulsa, Oklahoma.

NATIONAL CONGRESS OF AMERICAN INDIANS

GUIDELINES FOR TRIBAL TELECOMMUNICATIONS PUBLIC POLICY DISCOURSE

PRINCIPALS

To protect, strengthen and assert tribal government sovereignty and regulatory jurisdiction in the areas of telecommunications and information technology.

RATIONALE

To create a framework and guidelines for tribal governments, Alaskan Native communities, intertribal organizations and American Indian and Alaskan Native organizations to prepare, plan and make recommendations for telecommunications and information technology policy, legislation, appropriations, and program development, promoting self-determination.

VISION

Establish equitable, affordable, and universal access to telecommunications services, allowing placement of infrastructure, and information technology equipment, – to deliver broadband services – and other evolving and emerging technologies on tribal lands to American Indian and Alaskan Native communities by the year 2010.

MISSION

To ensure that the universal service concepts of the 1996 Telecommunications Act allow for telecommunications infrastructure and information technology to be developed and utilized in a manner that meets the social, civic, economic, educational and cultural needs of tribes, American Indian and Alaskan Native communities.

GUIDELINES

1. Recognition of the sovereignty of tribal governments and Alaskan Native communities by adhering to the provisions defined by Executive Orders, such as the FCC Government-to-Government policy, promoting the government-to-government consultations with individual tribal governments regarding all telecommunications and information technology policy making processes.
2. Recognition of the rights of tribal governments and Alaskan Native communities to exercise and assert regulatory jurisdiction over telecommunications activities within the external boundaries of reservations and Alaskan Native communities. This includes, but is not limited to:

- a. Eligible telecommunications carrier (ETC) designations and requirements
 - b. Enhanced Lifeline and Link Up consumer outreach and education
 - c. Consumer protection
 - d. Enforcement
 - e. Rights-of-way
 - f. Taxation and usury fees
 - g. Construction and infrastructure build-out
 - h. Tower placement
3. Encourage states, counties, municipalities, and consortiums to provide partnership opportunities, promoting telecommunication services, which are mutually beneficial for the economic, social, and general welfare for all state citizens.
 4. Promote and support tribal government and Alaskan Native community efforts to establish telecommunications regulatory authorities and codes.
 5. Support and advance tribal government and Alaskan Native ownership of spectrum above tribal lands and Alaskan Native communities by granting, rather than auctioning, partitioned spectrum licenses to tribal entities.
 6. Encourage and support tribal government and Alaskan Native community efforts to establish and operate telephone companies and other telecommunication businesses such as Internet Service Providers – especially in unserved and underserved areas.
 7. Provide a sufficient set-aside of Homeland Security funds to ensure equitable and sufficient distribution of funds among tribal governments, American Indian and Alaskan Native communities for the development of telecommunications build-out necessary to mitigate emergencies and crisis brought about by acts of terrorism, drug trafficking, human smuggling, and other deplorable acts which threaten national and local security.
 8. Support and advance public safety implementation among tribes and Alaskan Native communities through the provision of grants for the development of telecommunications and information technology capacities among:
 - a. Law enforcement agencies
 - b. Emergency medical service providers
 - c. Fire departments
 - d. Courts and justice departments
 - e. and other emergency responder agencies.
 9. Support and advance the effort of tribal governments and American Indian and Alaskan Native communities to bridge their respective digital divides through the provision of:
 - a. Grants, loans and contracts
 - b. Tax incentives
 - c. Infrastructure build-out services, including, but not limited to:

- i. Training and technical assistance
 - ii. Planning
 - iii. Research
 - iv. Assessments
 - v. Workforce development
 - vi. Professional development
 - vii. deployment of Internet Protocol telephony
 - viii. and other evolving and emerging technologies.
10. Preserve and advance the Universal Service Fund, including High Cost Support, Enhanced Lifeline, Link-Up and E-Rate programs.
- a. Expand the Universal Service Fund to include High Cost support, Enhanced Lifeline and Link-Up support for discounted broadband services.
 - b. Establish a set of Enhanced Lifeline and Link-Up eligibility criteria that is specifically designed to meet the unique needs of tribes and Alaskan Native communities.
 - c. Establish a set of Enhanced Lifeline and Link-Up consumer outreach and education criteria that is specifically designed to meet the unique needs of tribes and Alaskan Native communities.
 - d. High cost support and Enhanced Lifeline and Link-Up support should NOT be limited to a single line into the home.
 - e. Remove state imposed barriers from the E-Rate program that prevent tribal and Alaskan Native libraries from accessing funds for broadband services.

TRIBAL PROVISIONS FOR THE NEXT TELECOMMUNICATIONS ACT
--

As Congress rewrites the 1996 Telecommunications Act, it is important that Congress use its powers as delegated by the Indian Commerce Clause to acknowledge and protect the public interest of Indian Country from competing public interests and regulatory jurisdictions.

To this end, as Congress rewrites the Act it should:

1. Amend Section 214(e) of the Telecommunications Act to include the following definition of unserved areas:

An unserved area is defined as service penetration 15% below of the nationwide penetration rate for any communications service; or 5% below national rural penetration rate for any communications service, whichever rate is higher.

2. Amend Section 214(e)6 of the Telecommunications Act to include Tribes and Native Alaskans;
3. Acknowledge Tribal regulatory authority;
4. Provide mechanisms, with enforcement powers, for ensuring equitable, affordable and sustainable access to communications services, including broadband, broadcast and emerging technologies, in Indian Country. These mechanisms should also apply to any situation where discriminatory practices by Eligible Telecommunications Carriers (ETCs) are identified;
5. Support tribal access and options for ownership and management of spectrum on Tribal lands for both wireless and broadcast applications; and,
6. Provide mechanisms to promote cooperation among Tribes, state Public Utility Commissions (PUCs) and the Federal Communications Commission (FCC) and remedies for resolving unforeseen conflicts.
7. Provide public financing to tribal communities that fall under the definition of an unserved area to close any service gap.