

Wireless Infrastructure Notice of Proposed Rulemaking and Notice of Inquiry Guidance for Tribal Nations on the Public Comment and Consultation Processes

In response to questions that the FCC has received from representatives of Tribal governments, this memorandum is intended to clarify the public comment process associated with the Wireless Infrastructure Notice of Proposed Rulemaking and Notice of Inquiry (NPRM/NOI)¹ and its relationship to the Commission's conduct of government-to-government consultation.

The FCC recognizes its obligation, pursuant to its trust responsibility to Tribal Nations, to consult on a government-to-government basis on those issues raised in the NPRM/NOI that significantly or uniquely affect Tribal governments, their land, and resources. In furtherance of this responsibility, the FCC has held and continues to hold conference calls and meetings throughout the country, with the Chairman and with senior staff. As the staff develops proposals for final action on the issues raised in the NPRM/NOI, this pre-decisional dialogue will continue. For further information about opportunities to participate in consultation or to schedule one-on-one meetings, please contact tribalinfrastructure@fcc.gov.

Consultation with Tribal governments is a legal obligation of Federal Agencies and constitutes an important recognition of Tribal sovereignty. The FCC highly values consultation as a means to inform decision makers about how the agency's actions may affect Native Americans, on and off Tribal lands. Consultation ensures that, to the greatest extent possible, the FCC understands and considers Tribal values and perspectives and facilitates and participates in meaningful dialogue about Tribal concerns.

By law, however, any specific information upon which the Commission relies in its decision making must be placed in the public record of the proceeding. For this reason, Tribal participation in the public comment process is critical.

We understand that the unique nature of engagement between Tribal Nations and the FCC warrants sensitive treatment. Because we recognize that some Tribal participants in group consultations may not be authorized to speak on behalf of their governments, and in order to encourage an open and free-flowing conversation about this NPRM/NOI, the Commission created a special exception to its rule that ordinarily requires any conversation that an FCC decision maker has with an outside party about the substance of a pending rulemaking proceeding to be summarized in the written record. While the FCC staff has authority to summarize the conversation at group consultation meetings for the public record, or to place recordings of those meetings in the record, out of respect for the values of consultation we have determined not to do so.

¹ *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Notice of Proposed Rulemaking and Notice of Inquiry, 32 FCC Rcd 3330. The full text of the NPRM/NOI is available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-38A1.docx

The consequence of this decision, however, is that Tribal representatives must enter into the public record any information that they want the Commission to consider in decision making associated with the NPRM/NOI.

Written submissions to the public record may take several forms. Although the designated periods for filing formal Comments and Reply Comments in this proceeding have expired, the Commission's rules provide for "*ex parte*" presentations either during or outside the comment periods. These *ex parte* filings may be particularly suitable for submitting information discussed or developed during consultation.

All written submissions into the public record, including Comments, Reply Comments, and *ex partes*, must be filed through the Commission's Electronic Comment Filing System (ECFS). Instructions for using ECFS are attached to this memorandum. If you prefer that FCC staff summarize the contents of any conversation, or seek assistance in ensuring that your submission is properly filed, please let us know.

If you have any questions, please contact Dan Margolis, Legal Advisor, Office of Native Affairs and Policy, 202-418-1377, Daniel.margolis@fcc.gov.



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FCC 17-38

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

In the Matter of

Accelerating Wireless Broadband Deployment by
Removing Barriers to Infrastructure Investment

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WT Docket No. 17-79

The docket number can be
found here. This is a
requirement for filing a
comment into ECFS

NOTICE OF PROPOSED RULEMAKING AND NOTICE OF INQUIRY

Adopted: April 20, 2017

Released: April 21, 2017

Comment Date: (30 days after date of publication in the Federal Register)

Reply Comment Date: (60 days after date of publication in the Federal Register)



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The Confederated Tribes of the Colville Reservation
P.O. Box 150, Nespelem, WA 99155
(509) 634-2200
FAX: (509) 634-4116



Tuesday, February 07, 2017

Marlene Dortch
Secretary
Federal Communications Commission
445 12 Street NW
Washington, DC 20554

These comments are submitted by the Confederated Tribes of the Colville Reservation to the Federal Communications Commission in the matter of application filed in the transfer of control of Level 3 Communications, Inc. to CenturyLink, Inc., WC Docket No. 16-403, a merger which must be approved by the FCC.

The Colville Tribes applauds CenturyLink's tribal engagement/consultation with some Northwest Tribes regarding Tribes' broadband needs on their historically underserved and

Very Truly Yours,

Dr. Michael Marchand
Chairman, Confederated Tribes of the Colville Reservation

**Federal Communications Commission
Office of Native Affairs and Policy**



Questions?