



c/o Gila River Telecommunications, Inc.  
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April 11, 2014

ACHP  
FCC Program Comment  
1100 Pennsylvania Ave. N.W. Suite 803  
Washington, DC 20554

Re: FCC Program Comment on Positive Train Control

The National Tribal Telecommunications Association (NTTA) writes in support of the Federal Communication Commission's (FCC) Program Comment, which is currently under review by the American Council on Historic Preservation (ACHP).<sup>1</sup> We believe it strikes an appropriate balance between protection of the rights of tribal lands afforded by Section 106 of the National Historic Preservation Act (NHPA) review process and the need to expedite the Tribal and historic preservation review process NHPA in order to meet the statutory deadline of December 31, 2015 and achieve the public safety benefits that will come from a fully-deployed Positive Train Control system.<sup>2</sup> While we recognize that public comments were due to ACHP by March 27, we felt it important to lend our perspective to this process.

NTTA is comprised of Tribally-owned communications companies including Cheyenne River Sioux Telephone Authority, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc., Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Tohono

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<sup>1</sup> See *Draft Public Comment to Tailor the Federal Communication Commission's Section 106 Review for Undertakings Involving the Construction of Positive Train Control Wayside Facilities*, available at <http://www.achp.gov/docs/PTC%20Draft%20Program%20Comment%20Submission%20to%20ACHP.pdf> (Mar. 4, 2014) (FCC Program Comment).

<sup>2</sup> *U.S. Rail Safety and Improvement Act of 2008*, Pub. L. No. 110-432, 122 stat. 4848 (2008).

O'odham Utility Authority, and Warm Springs Telecom. NTTA's mission is to be the national advocate for telecommunications service on behalf of its member companies and to provide guidance and assistance to members who are working to provide modern telecommunications services to Tribal lands.

As you are aware, the Program Comment proposed by the FCC creates an optional, streamlined process to existing FCC Nationwide Programmatic Agreements (NPAs) that allows parties to consider entering into arrangements, including alternative uses of Tower Construction Notification System (TCNS) to notify tribal nations of proposed projects and for tribal nations to respond to applications. Applications submitted under this procedure are permitted to batch pole applications by "geographic area of interest," such as a county. This streamlined arrangement is limited to only those wayside structures as specified in the Program Comment.<sup>3</sup>

Importantly for our interests, the Program Comment requires applicants seeking to use this alternative arrangement to submit in the initial application package maps and cultural resource reports. It is also important that the Program Comment allows tribal nations to request field and/or ethnographic surveys.<sup>4</sup> These are items that are not customarily required under the normal reporting process at the FCC and their inclusion will encourage tribal consultation and engagement early in the process. Additionally, the FCC has made clear that rail companies should engage with tribal representatives to benefit from their professional expertise, services, and to obtain written materials to assist in the process.<sup>5</sup>

One area where NTTA would like to see direction from the ACHP and FCC would be for these two agencies to publicly encourage the rail companies to hire tribal members to assist in this construction project and to look to tribal phone companies with experience in deploying infrastructure on tribal lands to assist them. As the FCC has stated, thousands of towers will need to be constructed over the coming year and we believe that this challenge presents an opportunity to leverage these tribal resources to assist in achieving this public safety goal.

We appreciate your consideration of our views and encourage you to adopt the FCC's Program Comment.

Respectfully submitted,

/s/ Godfrey Enjady

*President, National Tribal Telecommunications Association*

cc: Federal Communications Commission

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<sup>3</sup> FCC Program Comment at 5.

<sup>4</sup> See FCC Program Comment at 8-10.

<sup>5</sup> FCC Program Comment at 9 (*Initial Submissions*); 10 (*Compensation for Professional Services*).