

January 17, 2012

Brian Tagaban, Executive Director
Navajo Nation Telecommunication Regulatory Commission
Morgan Blvd
Building #2740, Training Center
Window Rock, AZ 86515

Subject: Application for Certificate of Convenience and Necessity, No. NNTRC-11-001

Sacred Wind Communications supports the Navajo Nation Telecommunications Regulatory Commission's (NNTRC) intent to establish certification requirements and procedures for all telecommunications companies operating on Navajo lands. That is the Navajo Nation's right. We might be one of the few telecommunications carriers so supporting the NNTRC in this endeavor, and that might be a problem for the NNTRC and for Sacred Wind, for we would oppose any regulation that is not applied to all telecommunications carriers equally.

Sacred Wind also supports the NNTRC's development of service quality standards and the filing of network maps and plans as well as pricing tariffs from all carriers. Again, though, all such regulation and procedures need to be applied to all telecommunications carriers equally. Two additional caveats are warranted as the NNTRC considers additional forms of regulation:

- 1) The NNTRC needs to have the properly skilled staff to interpret and manage other issues that accompany a telecommunications company's network design, technologies deployed, universal equipment and service standards and pricing.
- 2) The NNTRC must ensure that its regulation is not *in addition* to the regulation imposed by the state utility commission (New Mexico, Arizona, Utah), but in place of that, or else it will soon be seen that telecommunications companies that operate on Navajo lands will face even higher operating costs than those who do not operate on Navajo lands.

The Navajo Nation should not tolerate either a situation where one carrier, or class of carriers, is subjected to NNTRC regulation and others escape the same level of regulation or simply ignore it. Not only would such disparity in regulatory treatment be an affront to the Nation, but it would also create a difference in the cost of operating on Navajo lands between those who agree to be regulated and those who refuse.

And finally – and with all due respect to the NNTRC -- Sacred Wind disagrees with the initial premise that the NNTRC’s efforts to create a CCN standard will “ensure the universal availability and accessibility of high quality affordable telecommunications services to all on the Navajo Nation” and “facilitate the efficient development and deployment of a telecommunications infrastructure.” These goals described in the NNTRC’s NOPR are far more affected by the land use policies and practices of the Navajo Nation and the federal government. Without serious reform at the Navajo Nation and BIA of its disposition of land use permits for new telecommunications facilities, all the regulation in the world will not improve the delivery of services to the Navajo People – it will just add to our costs of doing business. For example, the years-long process to allow carriers to simply attach fiber optic or copper cables to an existing electric pole is probably the single-most common impediment to delivering basic and broadband services to the Navajo people. If this were fixed, telecommunications carriers would have less reason not to invest in new facilities on Navajo lands and the NNTRC could then be meaningfully engaged in reviewing the network plans of those committed to serve the Navajo People.

Sincerely,
John Badal