



NEWS

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See MCI v. FCC, 515 F.2d 385 (D.C. Circ 1974).

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FCC SIGNS HISTORIC TOWER SITING AGREEMENT WITH TRIBES AND STREAMLINES TOWER REVIEW

WASHINGTON, D.C. – Today, the Federal Communications Commission (FCC) took a major step forward in its relationships with federally-recognized American Indian Tribes and Alaska Native Villages, as well as Native Hawaiian Organizations, by signing a Memorandum of Understanding (MOU) with the United South and Eastern Tribes, Inc. (USET). The FCC also launched a new Internet-based Tower Construction Notification System (TCNS).

These two steps were first identified as important milestones in FCC Chairman Michael K. Powell's National Environmental Policy Act (NEPA) Action Plan announced on May 1, 2003, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-234001A1.pdf. Since that time the FCC has implemented more than 90% of the initiatives identified in its NEPA action plan and is nearing completion on the rest.

Memorandum of Understanding with USET

At the Washington Impact Week meeting of the USET Board of Directors, FCC Chairman Michael K. Powell and USET President Keller George signed an MOU regarding the development of Best Practices in siting communications towers. The MOU is the first of its kind for the FCC with Tribes and the "Best Practices" that it envisions will serve as a model for other potential cooperative efforts with Tribes nationwide.

Chairman Powell stated, "The FCC strives to ensure that everyone has access to basic and advanced telecommunications services. Indian Country must be a part of this technological revolution. At the same time, we must ensure that communications services are deployed consistent with the NEPA [National Environmental Policy Act] and the NHPA [National Historic Preservation Act] mandates to protect valuable historic and environmental resources, including Tribal sites of cultural importance."

The Best Practices, which are in the final drafting stages, involve the identification of practical, voluntary methods by which the communications tower industry and USET Tribes can work together to preserve properties of religious and cultural significance to Tribes. USET, established in 1968, is a non-profit inter-Tribal government organization comprised of 24 federally recognized Indian Tribes from Maine to Florida to Texas.

NHPA requires federal agencies to take into account the effects of their undertakings on historic properties that are included in or eligible for inclusion in the National Register of Historic Places, which may include properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian Organization.

Tower Construction Notification System

The Commission also announced the implementation of a new communications Tower Construction Notification System, which will assist the Commission and the parties it regulates in determining when protection of an historic property, Tribal religious site, or cultural site is necessary.

With respect to the new voluntary notification system, Chairman Powell stated, “By providing early notification of proposed tower construction, this new Tower Construction Notification System will increase communication between the Commission, tower builders, and the communities where the towers are located. It will also improve compliance with the Commission’s rules and streamline the review process for tower construction.”

The purpose of the new system is to provide Tribal and state historic preservation entities with early notification of proposed communications tower construction. The new system is not intended to supplant the existing NHPA government-to-government consultation process with federally-recognized Tribes or antenna structure registration requirements, but rather is a tool to assist tower companies and others involved with towers in ensuring that construction complies with all applicable federal, state, local, and Tribal rules. The FCC reviews proposed tower construction under the NHPA. Demonstrations of the new system have been provided to industry and a number of inter-Tribal and Tribal historic preservation organizations.

Users of the new notification system include anyone involved in the construction of communications towers, specifically, tower companies, outside consultants, State Historic Preservation Officers, federally-recognized American Indian Tribes and Alaska Native Villages, as well as Native Hawaiian Organizations. The TCNS allows anyone proposing to build a tower to submit a voluntary, electronic notification to the Commission about the proposed tower construction. The Commission will then provide this information to the relevant entities, which will have access to the system, and may through the secure, electronic system, submit responses to the notification that will be sent electronically back to the notifier. This will also allow the Commission to consult on a government-to-government basis with federally-recognized Tribes earlier in the pre-construction process.

Further information about the system is available on the Commission’s website at <http://wireless.fcc.gov/antenna/outreach/notification/index.html>, or through the Commission’s Tribal homepage at <http://www.fcc.gov/indians>.