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Statement of Chairman Cedric Cromwell
NIGC Consultation on One Touch Electronic Bingo Systems

July 18, 2013

Chairwoman Stevens and Commissioner Little, thank you so much for convening this consultation and proposing to clarify and correct the Commission's formal position on the play of one touch electronic bingo systems. I congratulate the Commission on correcting a long standing error that has clouded the public perception of class II gaming, and caused tribes to spend too much of their scarce resources on defending the play of games that should have been, from day one, unquestionably acceptable as within the broad remedial mandate of Congress in the Indian Gaming Regulatory Act. ("IGRA").

Under the IGRA, tribes cannot conduct class III gaming without navigating the complex and politically perilous compact negotiation process. Too often, in recent years, tribes have been compelled to negotiate revenue sharing agreements in exchange for the compact agreements that IGRA was supposed to protect and ensure. In Massachusetts, we are faced with a legislative initiative that has opened the Commonwealth to a broad range of casino gambling, and would permit us limited regional exclusivity if we pay a considerable revenue share. And if we can get our initial reservation in trust, and our compact approved before our potential competitors can establish a foothold.

For us, some leverage is provided by the availability of a viable class II alternative. We know – and the legislature knows – that once our land is in trust, we can open a very lucrative class II facility and generate funding for our citizens immediately, even if a compact is not in place. If we open such a facility, we will not have to pay a revenue share, and we will not be subject to regulation by the Commonwealth. IGRA provides us this important power, inherent in tribal sovereignty, and as recognized by the Supreme Court, that the state cannot control. We need this leverage, and we are glad that the NIGC is taking steps to clarify and protect it.

The Commission's proposal, at this time, properly brings the regulatory body back in line with both the IGRA and the courts that have construed it. Class II electronic bingo systems, developed in Indian Country as a necessary defense against states that would not compact in good faith, have proven to be a lifeline in providing economic development where it is most needed. The class II bingo systems available today follow the guidelines of the law, passed by Congress to protect class II gaming against state infringement. As the IGRA provides, class II Bingo need meet only three criteria, and may be played with the use of technological aids. Congress further specified that tribes should have maximum flexibility in the use of those aids. The courts have agreed. Fully electronic bingo is fully legal under the IGRA. Multiple "touches" are not required, nor are any other add-ons to the statutory requirements. The NIGC has, in the past, far exceeded its authority in attempting to impose such additional requirements, and in disapproving the Metlakatla Ordinance for permitting one touch play.

The Mashpee Wampanoag Tribe strongly supports the NIGC's proposal to finally approve the play of one touch bingo gaming systems. We urge that the NIGC not only approve the Metlakatla Ordinance, but also withdraw game classification letters to the extent that they give incorrect and harmful guidance as to the requirements of additional features of permissible electronic bingo technology. While my Tribe does not currently operate any class II gaming, we fully appreciate the value of having that resource available, and unclouded by regulatory confusion.

Thank you for your important work and positive efforts to protect Indian Gaming.