

machines were much heavier than the wind turbine generator produced by the domestic manufacturer that withdrew from the project. The use of a heavier machine would add significantly to project expenses and delay the project schedule because a foundation redesign would be required and the foundation for this project is already under construction. Lastly, the Authority concluded that none of the domestic manufacturers contacted could meet the City's zoning law requirement that the wind turbine generator emit less than 104 decibels of noise.

The Authority states that only the Leitwind LTW 77 foreign manufactured model meets the size and noise requirements for this project. Although the Leitwind LTW 77 does not use the same site consideration limitations that are used by the domestic manufacturer that withdrew from the project and notwithstanding that there are currently no local, State, or Federal requirements regulating the setback distances associated with the operation of wind turbines, the Authority has indicated that it has taken all necessary precautions to eliminate ice shedding. Such mitigation measures include, but are not limited to, the incorporation of controls with three levels of redundancy to shut down the turbine during potential glaze icing events and the restarting of the turbine only after a detailed visual inspection is completed, vibration sensors on the blades that recognize if the blades are out of balance due to ice formation, and the positioning of the shut down turbine to facilitate ice shedding directly into a fenced enclosure with posted warning signs directly below the turbine.

Also, the Federal Aviation Administration (FAA) notified the Authority that its study revealed that a wind turbine generator on the site would not be a hazard to air navigation, provided that the turbine structure is marked and/or lighted, in accordance with FAA Advisory Circular 70/7640-1 K Change 2. The Authority confirmed that the LTW 77 specifications fall within the scope of the FAA's determination and that the Authority will mark and/or light the turbine in accordance with FAA requirements.

Based on the technical evaluation of the Authority's waiver request and supporting documentation conducted by EPA's national contractor, the Authority's claim that no domestic manufacturer can produce and site a 1.5 MW wind turbine generator that meets the project specifications is supported by the available evidence. In addition, the evaluation of the supporting documentation indicates that at least

one foreign manufacturer, Leitner-Poma, will provide a 1.5 MW wind turbine generator at the site that can meet project design and performance specifications.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are already "shovel ready" by requiring entities, such as the Authority, to revise their design standards and specifications and potentially choose a more costly, less efficient project. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and potentially the cancellation of this project as sited. The delay or cancellation of this construction would directly conflict with the fundamental economic purpose of ARRA, which is to create or retain jobs.

The April 28, 2009, EPA Headquarters Memorandum, "Implementation of Buy American provisions of Public Law 111-5, the 'American Recovery and Reinvestment Act of 2009'" (Memorandum), defines: *reasonably available quantity* as "the quantity of iron, steel, or the relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design," and *satisfactory quality* as "the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs."

The Region 2 State Revolving Fund Program Team has reviewed this waiver request and has determined that the supporting documentation provided by the Authority establishes both a proper basis to specify the particular good required and that the manufactured good is not available from a producer in the United States to meet the design specifications for the proposed project. The information provided is sufficient to meet the criteria listed under Section 1605(b) of ARRA, OMB regulations at 2 CFR 176.60-176.170, and in the EPA Headquarters April 28, 2009 Memorandum: Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. The basis for this project waiver is the authorization provided in Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the Authority's technical specifications, a waiver from the Buy American requirement is justified.

The Administrator's March 31, 2009, Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the Authority is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111-5 for the purchase of a Leitner-Poma Leitwind LTW 77 1.5 MW wind turbine generator, as specified in its December 15, 2010 waiver request. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers "based on a finding under subsection (b)."

Authority: Pub. L. 111-5, Section 1605.

Dated: March 10, 2011.

Judith A. Enck,

Regional Administrator, Environmental Protection Agency, Region 2.

[FR Doc. 2011-8018 Filed 4-4-11; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 11-41; FCC 11-30]

Improving Communications Services for Native Nations

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comment on a wide range of issues concerning how its rules and policies could be modified to provide greater economic, market entry, communication adoption opportunities, and incentives for Native Nations. The Commission also seeks government-to-government consultation with Native Nations, input from inter-Tribal government associations and Native representative organizations, and input from the public on the best ways to move forward. The Commission is committed to ensuring that all Americans have access to emerging services and technologies, with Native Nations being at the forefront of the Commission's efforts.

DATES: Comments are due on or before May 20, 2011, and reply comments due on or before July 5, 2011.

ADDRESSES: You may submit comments, identified by [CG Docket No. 11–41 and/or FCC 11–30], by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CG Docket No. 11–41.

- Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response.

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. The filing hours are 8 a.m. to 7 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, or via email to fcc@bcpiweb.com. Parties must also send a courtesy copy of their filing to Rod Flowers, Office of Native Affairs and Policy, Federal Communications Commission, 445 12th Street, SW., Room 4–C487, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Cynthia Bryant, Office of Native Affairs and Policy at (202) 418–8164 (voice), (202) 418–0431 (TTY), or e-mail at Cynthia.Bryant@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Improving Communications Services to Native Nations*, Notice of Inquiry (*Native Nations NOI*), document FCC 11–30, adopted on March 3, 2011, and released on March 4, 2011, in CG Docket No. 11–41.

The full text of document FCC 11–30 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, *telephone:* (800) 378–3160, *fax:* (202) 488–5563, or Internet: <http://www.bcpiweb.com>. Document FCC 11–30 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov> or <http://www.fcc.gov/indians>.

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments and reply comments must include a short and concise summary of the substantive discussion and questions raised in the document FCC 11–30. The Commission further directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. The Commission strongly encourages that parties track the organization set forth in document FCC 11–30 in order to facilitate its internal review process. Comments and reply comments must otherwise comply with 47 CFR 1.48 and all other applicable sections of the Commission's rules.

Pursuant to 47 CFR 1.1200 *et seq.*, this matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral

and written presentations are set forth in 47 CFR 1.1206(b).

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Synopsis

The *Native Nations NOI* seeks consultation and comment on 11 specific categories of communications issues affecting Native Nations and Americans living on Tribal lands—the lands of federally recognized American Indian Tribes and Alaska Native Villages—as well as Hawaiian Home Lands. The first five sections of the document seek comment on issues that cut broadly across the many different substantive areas within the Commission's regulatory mission. With a better understanding of these critical issues, the Commission can more effectively work with Native Nations to break down barriers and find genuine solutions. For example, the NOI seeks comment on whether a Native Nations priority, analogous to the one presently found in the Commission's rules for radio broadcast licensing, should be adopted more broadly to make it easier for Native Nations to provide other communications services to their own communities.

The *Native Nations NOI* also seeks comment on the basic tools that Native Nations need in order to build sustainable business and deployment models to address the significant communications infrastructure needs, market challenges, and demand aggregation requirements specific to Tribal lands. Further, recognizing the uniqueness of Tribal lands, the document seeks comment on the challenges and barriers faced by Native Nations in achieving broadband adoption and utilization. The *Native Nations NOI* also seeks comment on whether the Commission should adopt a single definition of Tribal lands for all communications-related regulation and, if so, precisely what that definition should encompass. The other issues on which the Native Nations NOI seeks comment delve into specific substantive areas of the Commission's existing rules. For example, the *Native Nations NOI* seeks comment on the Universal Service Fund's eligible telecommunications carrier (ETC) designation process on Tribal lands, including the nature and extent of those designations and requirements for the consultative process with Native Nations. The *Native*

Nations NOI also examines public safety and interoperability challenges on Tribal lands, including the widespread lack of 911 and E-911 services.

The *Native Nations NOI* also seeks comment on how to improve the Commission's processes and Best Practices—pursuant to Section 106 of the National Historic Preservation Act—for the protection of Native sacred sites and consultation with Native Nations and Native Hawaiian Organizations in the review of communications tower sitings. In addition, the *Native Nations NOI* seeks comment on ways to make satellite-based services available for Native Nations, by addressing issues of cost, equipment, and market-entry points for Native Nations.

The *Native Nations NOI* seeks comment on the extent to which persons with disabilities living on Tribal lands experience barriers in using communications services and advanced technologies, and asks how the Commission can address those barriers. The *Native Nations NOI* also asks how the Commission can best structure a productive and efficient nation-to-nation consultation process unique to the mission of the Commission and the needs of Native Nations, recognizing that many consultations with the Federal government are occurring on many different and inter-related issues at any given time.

Finally, recognizing that the *Native Nations NOI* may not cover all of the communications challenges facing Native Nations and their communities, the document invites comment on other matters involved in the provision of communications services to Native communities that may warrant future Commission action.

Ordering Clauses

Pursuant to sections 1, 2, 4(i), 4(j), 7(a), 11, 214, 225, 254, 255, 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, 332, 403, 706, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 157(a), 161, 214, 225, 254, 255, 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, 332, 404, 706, and 716, and section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, document FCC 11–30 is adopted.

Federal Communications Commission.

Bulah P. Wheeler,
Deputy Manager.

[FR Doc. 2011–7961 Filed 4–4–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 11–04]

Worldwide Logistics Co., Ltd.; Possible Violations of Sections 10(a)(1) and 10(b)(2) of the Shipping Act of 1984; Order of Investigation and Hearing

Worldwide Logistics Co., Ltd. (Worldwide) is a company based in the People's Republic of China, providing service as a non-vessel-operating common carrier (NVOCC). Worldwide registered with the FMC as a foreign-based NVOCC in September 2004. Worldwide's reported address is 14F–16F Junjiang International Tower, No. 228 Ning Guo Road, Yangpu District, Shanghai, PRC 200090. It is a part of the Worldwide Logistics Group, said to be one of the leading integrated logistics service providers in China.¹

Worldwide currently holds itself out as an NVOCC pursuant to its automated tariff No. 019194–001. Its tariff is maintained by Distribution Publications, Inc., and is published electronically at <https://www.dpiusa.com>. Worldwide currently maintains an NVOCC bond with Navigators Insurance Company, 6 International Drive, Rye Brook, NY 10573.

It appears that Worldwide originated and substantially participated in an ongoing practice of misdescribing cargo to the transporting ocean common carrier since at least April 2008. With respect to those shipments apparently misdescribed, Worldwide was identified as the shipper signatory to various service contracts with ocean common carriers² and as the person for whose account the transportation was being provided. Contemporaneous documentation such as the commercial invoice or the NVOCC house bill of lading reflect that shipments declared to the vessel operator as “fabric” or “cotton fabric” actually were loaded with garments or with other miscellaneous finished textile goods. Due to the difference between the rate Worldwide paid to ship the misdescribed goods and the rate at which the cargo should have moved under the various service contracts used by Worldwide, it appears that Worldwide obtained lower than applicable rates for these shipments, in

¹ <http://www.worldwide-logistics.cn/en/ourservice.aspx?id=8>.

² As relevant herein, these contracts include, but are not limited to: Evergreen S/C # SC325398, # SC34303, and # SC37000; Hanjin S/C # AEF24208; K Line S/C # 41033; Maersk S/C # 275214; NYK S/C # SC0109828, # SC0114261, and # SC0114580; and OOCL S/C # PE084981.

violation of section 10(a)(1) of the Shipping Act.

It also appears that for these same shipments, Worldwide acted as a common carrier in relation to its NVOCC customers and issued its own NVOCC bill of lading. Worldwide has maintained an electronic tariff since September 17, 2004. However, as indicated by Worldwide's debit notes, the rate assessed by Worldwide to its NVOCC customers appears to differ substantially from its published rates. Accordingly, it appears that Worldwide provided service that was not in accordance with its published tariff, in violation of 10(b)(2) of the Shipping Act.

Now therefore, it is ordered, That pursuant to sections 10, 11, and 13 of the Shipping Act, 46 U.S.C. 41102, 41104, and 41107–41109, an investigation is instituted to determine:

(1) whether Worldwide Logistics Co., Ltd. violated section 10(a)(1) of the Shipping Act by obtaining transportation at less than the rates and charges otherwise applicable by an unjust or unfair device or means;

(2) whether Worldwide Logistics Co., Ltd. violated section 10(b)(2) of the Shipping Act by providing service other than at the rates, charges, and classifications set forth in its published NVOCC tariff or applicable NSA;

(3) whether, in the event violations of sections 10(a)(1) or 10(b)(2) of the Shipping Act are found, civil penalties should be assessed against Worldwide Logistics Co., Ltd. and, if so, the amount of penalties to be assessed;

(4) whether, in the event violations of sections 10(a)(1) or 10(b)(2) of the Shipping Act are found, the tariff(s) of Worldwide Logistics Co., Ltd. should be suspended; and

(5) whether, in the event violations are found, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn