

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Transforming the 2.5 GHz Band)	WT Docket No. 18-120

**MOTION OF
THE NATIONAL TRIBAL TELECOMMUNICATIONS ASSOCIATION
FOR EXTENSION OF TIME FOR RURAL TRIBAL PRIORITY WINDOW APPLICATIONS**

Pursuant to 47 C.F.R. § 1.46, the National Tribal Telecommunications Association (NTTA) requests an extension of time to make the necessary filing under the Federal Communications Commission’s (FCC or Commission) Rural Tribal Priority Window to obtain access to 2.5 GHz spectrum.¹ The Rural Tribal Priority Window adopted by the Commission to afford Tribal governments access to 2.5 GHz spectrum opened on February 3, 2020 and is currently scheduled to close on August 3, 2020.² Due to the ongoing COVID-19 pandemic, its effects on many Tribal areas, and the likelihood of ongoing economic impacts, NTTA requests the Commission extend the closing of the Rural Tribal Priority Window by 90 days, or to November 2, 2020.

NTTA consists of Tribally-owned communications companies and broadband providers including Cheyenne River Sioux Telephone Authority, Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., Hopi Telecommunications, Inc., Mescalero Apache Telecom, Inc.,

¹ *In the Matter of Transforming the 2.5 GHz Band*, WT Docket No. 18-120, Report and Order, rel. July 11, 2019 (FCC 19-62) at 47 (2.5 GHz Order)

² *Federal Communications Commission Announces 2.5 GHz Rural Tribal Priority Window and Technical Workshop*, Public Notice, WT Docket No. 18-120, DA 19-1226 (rel. December 2, 2019)

Saddleback Communications, San Carlos Apache Telecommunications Utility, Inc., Tohono O'odham Utility Authority, and Warm Springs Telecom, as well as associate members Nez Perce Tribe, Sacred Wind Communications, and Spokane Tribe Telecom Exchange. 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.

I. BACKGROUND

On July 11, 2019, the FCC adopted a Report and Order fundamentally changing the way 2.5 GHz spectrum, used predominantly for Educational Broadband Service (EBS), is used in the United States.³ This change means that a large amount of spectrum, currently not being used in large parts of the western United States, can be freed up for use in providing wireless broadband services, including fixed and 5G mobile. Importantly, the Commission adopted an innovative policy that allows Tribal entities priority access to unused spectrum over their Tribal lands.⁴ This Rural Tribal Priority Window provides Tribal entities in certain defined situations to obtain access to 2.5 GHz spectrum prior to it being offered to the general public via a competitive auction.

Subsequent to the release of the *2.5 GHz Order* the FCC and Wireless Telecommunications Bureau (WTB) moved forward with implementing the Rural Tribal Priority Window process by conducting outreach, through the Office of Native Affairs and Policy, to Tribal representatives and holding technical workshops. In addition, the WTB established a 2.5 GHz Rural Tribal Priority

³ See *2.5 GHz Order* at 1-3

⁴ *Id.*, at 47

Window web site that provides, among other information, a mapping tool that allows interested parties to determine where spectrum is available. Finally, the Commission opened the Rural Tribal Priority Window on February 3, 2020 and announced it will close August 3, 2020.

II. EXTENDING THE RURAL TRIBAL PRIORITY WINDOW

The Commission adopted a 180-day time period during which interested Tribal or Tribally-related entities can file an application for certain 2.5 GHz spectrum during the rural Tribal priority window. This application is to be filed via the Commission's Universal Licensing System (ULS), and includes the normal steps parties must take to be eligible to obtain and operate spectrum in the United States. While the 180-day time frame is certainly generous, the Commission could not have anticipated the onset of the COVID-19 pandemic and the resulting adverse effects it has on the entirety of the country. One of those effects is the ability for many Tribal governments and Tribally-related entities to be able to properly consider participation in the 2.5 GHz Tribal priority window for obtaining spectrum.

Applying for a 2.5 GHz license under the Commission's Rural Tribal Priority Window consists of more than filling out forms and submitting information online via the ULS. The WTB recognizes this when urging potential licensees to consider due diligence factors such as:

- 1) how much unassigned eligible 2.5 GHz spectrum is available;
- 2) equipment siting, site acquisition, and/or leasing;
- 3) technical requirements, including infrastructure and other network equipment;
- 4) neighboring operations that must be protected from interference;
- 5) system financing or partnership arrangements;
- 6) system administration and management; and

7) network and backhaul needs.⁵

Many states and reservations have undertaken mitigation efforts that make many of these tasks either impossible or prohibitively costly. For example, shelter-in-place orders make it difficult to direct the resources necessary to perform site studies, and declaring that only essential government personnel be allowed to perform duties makes it impossible to perform even the most perfunctory of these tasks. NTTA notes that as of April 24, 2020, only 24 applications have been filed.⁶

The Navajo Nation has perhaps been the most affected by the COVID-19 pandemic, and serves as a relevant example of the difficulties many Tribal governments may have in meeting the Rural Tribal Priority Window deadline.⁷ The governor of New Mexico recently expressed concern that Tribal nations could be “wiped out” by the pandemic.⁸ According to the New York Times “the crises among the Diné, as many Navajo prefer to call themselves, is echoing throughout Indian Country. Around the United States, and especially in New Mexico, Tribal leaders have started barring nonresidents from reservations. In South Dakota, the Oglala Sioux tribe announced a 72-hour lockdown after a resident of the Pine Ridge reservation tested positive for the coronavirus. The Blackfeet and the Northern Cheyenne tribal nations in Montana have announced curfews.”⁹ Tribal nations are fighting for the health and welfare of their citizens,

⁵ *Wireless Telecommunications Bureau Announces Procedures for 2.5 GHz Rural Tribal Priority Window*, Public Notice, WT Docket No. 18-120, DA 20-18 rel. January 6, 2020 at 5

⁶ See <https://www.fcc.gov/25-ghz-rural-tribal-window-submitted-applications> (last visited April 24, 2020)

⁷ New York Times, April 9, 2020 (updated April 20, 2020)

⁸ ABC News, March 30, 2020

⁹ New York Times, April 9, 2020 (updated April 20, 2020)

making resources that could be directed, during normal times, to performing due diligence on potentially obtaining 2.5 GHz spectrum extremely scarce.¹⁰

Tribal governments in NTTA member areas are also struggling to address the COVID-19 pandemic. The Mescalero Apache Tribe in New Mexico had declared a state of emergency, has prohibited mass gatherings, closed all Tribal roads to non-Tribal member traffic, and has instituted a curfew that requires people remain in their usual place of abode between 10:00 pm and 6:00 am.¹¹ The Gila River Indian Community in Arizona is operating under a declared public health state of emergency that, among other things, includes or included travel restrictions for community members.¹² Finally, the Salt River Pima-Maricopa Indian Community in Arizona adopted a local emergency declaration that includes a remain in place order.¹³

Based on these factors, NTTA believes an extension of the Rural Tribal Priority Window is warranted. Given the uncertainty surrounding the length of the mitigation measures adopted by Tribal governments and those across the nation, when and how the resumption of normal business activities will occur, and the need for Tribal governments to direct all available resources to maintaining the public health, NTTA requests the Commission extend the Rural Tribal Priority

¹⁰ See also Letter from State of Hawaii, Department of Hawaiian Home Lands to Chairman Ajit Pai, et. al., dated April 3, 2020 *"In the coming weeks and possibly months, tribal governments will be focused on coordinating testing, prevention, and healthcare services for their members in addition to securing resources that provide financial assistance to their businesses"* and Letter from the Colorado Broadband Office to Chairman Pai dated April 24, 2020 *"The [Tribal] Nations' ability to focus on the vitally important 2.5 GHz spectrum opportunity has understandably been sidelined in order to address the immediate critical needs of health care, public safety, and unemployment as a result of the pandemic. Continuing with the preexisting Rural Tribal Window timeline will result in fewer applications and will effectively negate the Commission's laudable policy objective of establishing a priority window in the first place."*

¹¹ Executive Order 20-02, March 24, 2020

¹² Executive Order adopted March 13, 2020

¹³ Executive Order adopted March 17, 2020; First Directive adopted April 1, 2020

Window by 90 days initially. After the initial 90 day period, the Commission should consider a further extension if circumstances demand such an action.

III. TREATMENT OF CURRENT APPLICANTS AND EMERGENCIES

NTTA recognizes that approximately 24 applications have been received pursuant to the Rural Tribal Priority Window for access to 2.5 GHz spectrum. NTTA does not desire to affect these applications with this motion for extension of time, and thus requests the Commission allow these applicants, to the extent the applications meet all criteria set out by the FCC, to gain access to the spectrum as originally scheduled. This would also apply to any application filed between now and the original August 3, 2020 deadline.

NTTA notes that the FCC has granted Special Temporary Authority in at least two instances to use 2.5 GHz spectrum during the COVID-19 pandemic.¹⁴ NTTA recommends the Commission continue using this process in providing Tribal areas the tools necessary to keep Native Americans connected during the pandemic. To this end, NTTA suggests that a streamlined process can and should be used for any of the Rural Tribal Priority Window applicants to the extent such entities require immediate emergency use.

¹⁴ *FCC Grants the Navajo Nation Temporary Spectrum Access to Meet Increased Wireless Broadband Needs During COVID-19 Pandemic*, News Release (April 17, 2020); *FCC Grants Temporary Spectrum Access to Support Connectivity on Tribal Reservation During COVID-19 Pandemic*, News Release (March 30, 2020)

CONCLUSION

The Commission's innovative process for giving Tribal nations the first opportunity to obtain 2.5 GHz spectrum is greatly appreciated by Indian Country. This spectrum has the potential to greatly assist many Tribal areas in addressing the digital divide that exists between these areas and the rest of the United States, and the Commission is correct in hoping many Tribes will take advantage of this opportunity. With the onset of the COVID-19 pandemic and the resulting mitigation measure being taken across the country, including in Tribal areas, it is difficult, if not impossible, for many of the Tribal governments to devote the time and resources necessary to perform due diligence prior to applying for the spectrum. To address this fact, NTTA requests an initial extension of the Rural Tribal Priority Window of 90 days, to be readdressed as the situation may require. This extension should not affect those applications filed prior to August 3, 2020 that would have otherwise been approved.

Respectfully Submitted,

Godfrey Enjady
President
National Tribal Telecommunications Association

April 30, 2020