

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

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

**MEMORANDUM OPINION AND ORDER**

**Adopted: July 31, 2020**

**Released: July 31, 2020**

By the Chief, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. The 2.5 GHz band (2496-2690 MHz) is the single largest band of contiguous spectrum below 3 gigahertz. In July 2019, the Commission noted that the 2.5 GHz band was prime spectrum for next-generation mobile operations, including 5G, and found that too much of this spectrum had lain fallow for more than twenty years.<sup>1</sup> As such, the Commission transformed the regulatory framework governing the 2.5 GHz band, creating a Rural Tribal Priority Window for eligible Tribal entities to seek licenses for currently unassigned 2.5 GHz spectrum over their rural Tribal lands with a commercial auction for any remaining unassigned spectrum to follow thereafter.<sup>2</sup>

2. Since July 2019, the Wireless Telecommunications Bureau (Bureau) and the Office of Native Affairs and Policy (ONAP) have engaged in an extensive effort to ensure robust participation in the Rural Tribal Priority Window. In December 2019, the Bureau announced the filing window would last for 182 days—from February 3, 2020 through August 3, 2020—responding to concerns from some Tribes that the initial 60-day filing window contemplated in the Commission’s order might be too short.<sup>3</sup> By January 15, 2020, Bureau or ONAP staff had reached out to every federally recognized Tribe and Alaska Native Village by phone or other direct contact to discuss the filing window. Those contacts were followed up by a letter from ONAP to each federally recognized Tribe and Alaska Native Village, dated January 23, 2020, which provided information about the window, links to the Commission’s 2.5 GHz Rural Tribal Priority Window website and mapping tool, and contact information where Tribes and Alaska Native Villages could get more details. Bureau and ONAP staff have also fielded more than 780 inquiries from Tribes and other interested parties, answering questions and actively assisting Tribes in preparing and submitting their applications. As of today, rural Tribes have submitted 229 applications, with another 55 applications saved in the Commission’s Universal Licensing System.<sup>4</sup>

<sup>1</sup> *Transforming the 2.5 GHz Band*, Report & Order, 34 FCC Rcd 5447, 5448, para. 3 (2019) (*2.5 GHz Order*).

<sup>2</sup> *Id.*

<sup>3</sup> *Federal Communications Commission Announces 2.5 GHz Rural Tribal Window and Technical Workshop*, Public Notice, 34 FCC Rcd 11138 (WTB 2019), para. 1 (*Window Public Notice*); *2.5 GHz Order*, 34 FCC Rcd at 5467-68, para. 61.

<sup>4</sup> Based on a review of the Universal Licensing System on July 31, 2020.

3. In light of the ongoing COVID-19 pandemic,<sup>5</sup> we nonetheless find that additional time may be needed for some rural Tribes to take advantage of the Rural Tribal Priority Window. As such, we find good cause to extend the filing window by 30 days—to September 2, 2020—to ensure an additional opportunity for eligible Tribes to participate in the filing window. In turn, we deny requests for significantly longer extensions because our extensive outreach efforts, coupled with the large number of applications we have already received from eligible rural Tribes where there are significant amounts of unassigned 2.5 GHz spectrum, make clear that such a long extension is unnecessary—and would itself be unproductive in getting this spectrum into use by delaying the licensing of both Tribes (through the filing window) and commercial operators (through the auction to come). We encourage any prospective rural Tribal applicants to reach out to the Bureau and ONAP immediately for additional support to successfully complete and timely submit an application.

## II. BACKGROUND

4. The 2.5 GHz Rural Tribal Priority Window is a unique opportunity for Tribes to gain access to spectrum over their rural Tribal lands in order to deploy broadband and other next-generation services to their populations. On January 6, 2020, the Bureau released a public notice setting forth the procedures for eligible Federally recognized Tribes with eligible rural Tribal lands and with a local presence to apply during the filing window.<sup>6</sup> The filing window is currently scheduled to last for 182 days—from February 3, 2020 through August 3, 2020.

5. The Commission has taken several steps to assist rural Tribes with the application process. Commission staff created a dedicated 2.5 GHz Rural Tribal Priority website that includes 2.5 GHz spectrum band information, guidance on application procedures, relevant Commission releases, and other resources, including an interactive mapping tool to assist Tribes in identifying eligible rural Tribal lands and unassigned spectrum over those lands.<sup>7</sup> In turn, Commission staff created a streamlined application process for eligible Tribes, greatly reducing the amount of time needed to submit the online application.

6. On January 14, 2020, Chairman Pai and Commission staff led a day-long, in-person and online workshop that discussed the 2.5 GHz spectrum band generally, explained application procedures, and demonstrated step-by-step how an applicant could apply. The workshop video and accompanying slide decks were then made accessible from the Commission's 2.5 GHz Rural Tribal Priority Window Website.<sup>8</sup> By January 15, 2020, Bureau or ONAP staff had reached out to every federally recognized Tribe and Alaska Native Village by phone or other direct contact to discuss the filing window. On January 23, 2020, ONAP sent a letter to every federally recognized Tribe and Alaska Native Village, providing information about the filing window, links to the Commission's 2.5 GHz Rural Tribal Priority Window website and mapping tool, and contact information where Tribes and Alaska Native Villages could get more details.

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<sup>5</sup> Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-nationalemergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>.

<sup>6</sup> *Wireless Telecommunications Bureau Announces Procedures for 2.5 GHz Rural Tribal Priority Window*, Public Notice, 35 FCC Rcd 308 (WTB 2020) (*Procedures Public Notice*).

<sup>7</sup> Federal Communications Commission, *2.5 GHz Rural Tribal Window*, <https://www.fcc.gov/25-ghz-rural-tribal-window>.

<sup>8</sup> Federal Communications Commission, *2.5 GHz Rural Tribal Window Workshop*, <https://www.fcc.gov/news-events/events/2020/01/25-ghz-rural-tribal-window-workshop>.

7. Commission staff have also conducted more than thirty events in person, by phone, or via online webinar to discuss the Rural Tribal Priority Window.<sup>9</sup> Specifically: On July 18, 2019, staff spoke at Midwest Alliance of Sovereign Tribes Conference in Mt. Pleasant, Michigan. On July 31, 2019, staff spoke at the Native American Development Corp. Annual Conference in Billings, Montana. On August 21-22, 2019, staff spoke at the Tribal Communications Workshop in Billings, Montana. On September 23, 2019, staff spoke at FCC Intergovernmental Advisory Committee meeting in Washington, DC. On September 28, 2019, staff spoke at the Department of the Interior's Tribal Broadband Summit in Washington, DC. On October 8, 2019, staff spoke at the Affiliated Tribes of Northwest Indians Annual Convention in Suquamish, Washington. On October 9, 2019, staff spoke at the Internet Society Indigenous Connectivity Webinar. On October 17-19, 2019, staff spoke at the Alaska Federation of Natives Convention in Fairbanks, Alaska. On October 20, 2019, staff held an FCC Tribal Communications Workshop in Albuquerque, New Mexico. On October 22, 2019, staff spoke at the National Congress of American Indians Conference in Albuquerque, New Mexico. On October 23, 2019, staff spoke at the Alaska Telecom Association Tech Showcase Board Meeting in Anchorage, Alaska. On November 5, 2019, staff spoke at the FCC Native Nations Communications Task Force meeting in Washington, DC. On November 12, 2019, staff spoke at the TribalNet Conference in Nashville, Tennessee. On November 15, 2019, staff spoke at a 2.5 GHz workshop for Tribes in Gallup, New Mexico. On November 20, 2019, staff spoke at the National Tribal GIS Conference in Albuquerque, New Mexico. On November 19-20, 2019, staff held an FCC Tribal Workshop in Blue Lake, California. On December 3-5, 2019, staff spoke at the Bureau of Indian Affairs' Tribal Providers Conference in Anchorage, Alaska. On December 12, 2019, staff spoke via videocall to the chief information officers of the Alaska Tribal Health System. On December 17, 2019, staff spoke at the Northern Pueblos Workshop near Santa Fe, New Mexico. On December 19, 2019, staff spoke at the Tribal Spectrum Workshop in the Gila River Indian Community, Arizona. On January 14, 2020 staff spoke at the FCC Rural Tribal Priority Window Workshop. On January 22, 2020, staff spoke at the Oklahoma Tribal Workshop in Norman, Oklahoma. On January 27, 2020, staff spoke at The Affiliated Tribes of Northwest Indians - Winter Conference in Portland, Oregon. On February 4, 2020, staff spoke at a Tribal Workshop in Bozeman, Montana. On February 27, 2020, staff spoke via videocall to the Washington State 2.5 GHz Tribal Priority Window Outreach Event in Olympia, Washington. On February 28, 2020, staff spoke on a conference call with the Western Regional Partnership Tribal Working Group. On March 2, 2020, staff provided a workshop that was livestreamed from an Alaska State Legislature Lunch and Learn Presentation in Juneau, Alaska, which was available over the internet to all Tribes in Alaska. On March 3, 2020, staff delivered a similar presentation in person to representatives of a number of Tribes at the Open Tribal Spectrum Workshop, Tlingit & Haida Indian Tribes of Alaska in Juneau, Alaska. On May 13, 2020, staff gave a 2.5 GHz presentation to Minnesota and Wisconsin Tribal Representatives. On July 1, 2020, staff spoke at the Department of Interior - Emergency Tribal Broadband Resources Webinar. On July 15, 2020 staff spoke on a conference call with Tribal Representatives from the North Slope of Alaska. On July 15, 2020, staff spoke in a webinar for Alaska Tribes hosted by the Denali Commission.

8. Bureau staff also have made themselves available to provide one-on-one assistance to any filer with questions or in need of assistance. To assist Tribal entities with questions about the filing window, the Bureau has created a dedicated email address where subject matter experts can be reached easily and quickly. Potential applicants have continued to make these inquiries, and the staff has continued to field them promptly during the pendency of the COVID-19 pandemic.

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<sup>9</sup> FCC, 2.5 GHz Rural Tribal Window Events, <https://www.fcc.gov/25-ghz-rural-tribal-window> (last visited July 27, 2020).

9. On April 22, 2020, the National Conference of American Indians requested a six-month extension of the filing window, citing the COVID-19 pandemic.<sup>10</sup> On April 30, 2020, the National Tribal Telecommunications Association (NTTA) filed a motion for a 90-day extension of the filing window in light of the ongoing pandemic.<sup>11</sup> In its motion, NTTA acknowledges that the Commission's original 180-day filing window was generous, but it also describes how the COVID-19 pandemic has had a significant impact on Native Americans.<sup>12</sup> On July 22, 2020, the National Congress of American Indians and others filed an "Emergency Motion for Stay of 2.5 GHz Rural Tribal Priority Window," seeking an extension of 182 days until February 1, 2021, and arguing such an extension will allow greater participation.<sup>13</sup> Several other stakeholders have weighed in as well, all urging some form of extension.<sup>14</sup>

### III. DISCUSSION

10. By establishing a lengthy six-month application period, simplifying the application process, and engaging in significant outreach both before and throughout the filing window, the Commission sought to encourage participation by as many eligible Tribes and Tribal entities as possible while still making this long-fallow spectrum available for new uses in the near term. We have met significant success thus far in that approach, with 229 submitted applications and another 55 applications saved from Tribal entities as of today.<sup>15</sup>

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<sup>10</sup> Letter from the National Congress of American Indians to Chairman Ajit Pai at 1 (Apr. 22, 2020).

<sup>11</sup> See Motion of the National Tribal Telecommunications Association for Extension of Time for Rural Tribal Priority Applications at 1, 3-5 (Apr. 30, 2020) (NTTA Motion); see also Letter from Gregory W. Guice, Esq., McGuireWoods, LLC, on behalf of Gila River Telecommunications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (May 6, 2020) (supporting the NTTA Motion).

<sup>12</sup> NTTA Motion at 3-5.

<sup>13</sup> Emergency Motion for Stay of 2.5 GHz Rural Tribal Priority Window of National Congress of American Indians, AMERIND, The Southern California Tribal, Chairmen's Association, and Public Knowledge (July 20, 2020) (NCAI Motion).

<sup>14</sup> See Letter from Native Public Media to Chairman Ajit Pai (Mar. 24, 2020); Letter from the State of Hawaii, Department of Hawaiian Homelands to Chairman Ajit Pai (Apr. 3, 2020); Letter from Kawerak, Inc. to Chairman Ajit Pai at 1 (Apr. 6, 2020); Letter from the Colorado Broadband Office to Chairman Ajit Pai (Apr. 24, 2020) (Colorado Broadband Office Letter); Letter from Governor Robert A. Mora, Sr., Pueblo of Tesuque, to Chairman Ajit Pai (May 22, 2020); Letter from Danae Wilson, Nez Perce Tribe, on behalf of the Tribal members of the Native Nations Communications Task Force, to Chairman Ajit Pai (May 4, 2020) (NNCTF Letter); Letter from Gerald Moses, Vice President, Intergovernmental Affairs, Alaska Native Tribal Health Consortium, to Chairman Ajit Pai (May 6, 2020); Letter from Rural Assembly et al. to Chairman Ajit Pai, Commissioner Michael O'Rielly, Commissioner Brendan Carr, Commissioner Jessica Rosenworcel, and Commissioner Geoffrey Starks (May 15, 2020); Letter from Governor Bill Anoatubby, The Chickasaw Nation, Principal Chief David W. Hill, Muscogee (Creek) Nation, Chief Gary Batton, Choctaw Nation of Oklahoma, Chief Greg P. Chilcoat, Seminole Nation of Oklahoma, Principal Chief Chuck Hoskin Jr., Cherokee Nation, to Chairman Ajit Pai (May 20, 2020); Letter from St. Regis Mohawk Tribal Council and Mohawk Networks, LLC to Chairman Ajit Pai (June 5, 2020); Letter from Lawrence Armour, Tribal Administrator, Klawock Cooperative Association to Chairman Ajit Pai (June 29, 2020); Letter from Jeffrey A. Campbell, Senior Vice President, Government Affairs and Public Policy, Cisco Systems, Inc., to Marlene H. Dortch, Secretary, FCC (July 2, 2020) (Cisco Letter); Ex Parte Letter from Harold Feld, Senior Vice President, Public Knowledge to Ms. Marlene H. Dortch, Secretary, FCC (July 6, 2020) (Public Knowledge *Ex Parte*); Letter from Access Humboldt et al. to Marlene H. Dortch, Secretary, FCC (July 23, 2020) (Access Humboldt *Ex Parte*).

<sup>15</sup> Based on a review of the Universal Licensing System on July 31, 2020. We note that NTTA asserts that only 24 applications had been filed at the time of its petition. See NTTA Motion at 4. The large number of subsequently filed applications seem to undermine NTTA's unsupported assertion that the basic steps of due diligence that the Bureau had urged potential applicants to take in assessing whether to apply, how much spectrum to seek, what will

11. We nonetheless find a 30-day extension of the 2.5 GHz Rural Tribal Priority Window to September 2, 2020, to be in the public interest because of the COVID-19 pandemic. Although it is the policy of the Commission that “extensions of time shall not be routinely granted”<sup>16</sup> and no party has demonstrated specific circumstances that show that a particular eligible Tribe will not in fact be able to complete its application by the existing deadline,<sup>17</sup> we recognize that the ongoing pandemic has made this process more difficult and time consuming than originally expected.<sup>18</sup> As a precautionary matter, we believe it prudent to extend the filing window by 30 days to give an additional opportunity for Tribes that have been impacted by the ongoing pandemic to complete their applications.

12. As they have throughout the window, Commission staff stand ready to provide assistance to any Tribes seeking to avail themselves of this opportunity. We urge Tribes and eligible Tribal entities to continue their work to submit timely window applications ahead of the extended deadline, and the Bureau will work with any Tribe or eligible Tribal entity needing assistance with the application process.

13. We disagree with arguments that a longer extension is warranted. *For one*, our extensive outreach efforts, coupled with the large number of applications we have already received from eligible rural Tribes where there are significant amounts of unassigned 2.5 GHz spectrum, make clear that such a long extension is unnecessary. Indeed, the Bureau has established a simple application process to make it easy for Tribes to apply. Applicants are not required to provide any financial or technical information, and the rural Tribal land map shape files that are required to be included as part of the application have been created by the Bureau and made available to applicants to upload as part of the application process. Bureau staff further streamlined the application process by eliminating inapplicable questions and prefilling answers to other questions on the electronic FCC Form 601 to avoid unnecessary confusion and to assist Tribal entities in completing the form. Bureau staff also greatly simplified ownership disclosure requirements for Tribal applicants; Tribal government applicants need only provide contact information and an exhibit listing the name, address, and title(s) of each member of the governing council or other entity that oversees the Tribe or Village’s affairs while filing FCC Form 602. A Tribal application for 2.5 GHz spectrum can be completed in roughly an hour,<sup>19</sup> and Bureau staff have been and remain available to provide one-on-one assistance to any filer with questions or needing assistance.

14. *For another*, contrary to the assertions of a few,<sup>20</sup> any extension will delay the time at which Tribes that have timely filed their applications may receive licenses to serve their members and address the hardships caused by the pandemic. The Bureau cannot start the process of accepting applications and issuing licenses to eligible applicants until after the window closes, because we will not know the extent of mutually exclusive applications while the window is open. An extension would delay the ability of those Tribes that have filed to receive licenses to provide badly needed broadband service to

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be needed to launch a service and the like, have become either impossible or prohibitively costly under the conditions of the pandemic. *See* NTTA Motion at 3-6.

<sup>16</sup> 47 CFR § 1.46(a).

<sup>17</sup> All requests for an extension appear to be filed as a precautionary matter on behalf of others, including those of two parties that are or represent Tribes that have already filed applications. *See* File Nos. 0009001261 (Nez Perce Tribe), 0009133883 (St. Regis Mohawk Tribe).

<sup>18</sup> *See, e.g.*, NTTA Motion at 3; Public Knowledge *Ex Parte* at 1; Colorado Broadband Office Letter at 2; NNCTF Letter at 1; Cisco Letter at 2.

<sup>19</sup> This is the staff estimate for applications for Tribes seeking authorization on their own rural Tribal land, based on the streamlined process using the Commission-provided shapefile. This streamlined process also includes tools to assist applicants in identifying unassigned spectrum; they need simply “check a box” to indicate the spectrum for which they are applying.

<sup>20</sup> Public Knowledge *Ex Parte* at 1; *see also* NCAI Motion at 35.

their communities.<sup>21</sup> We must therefore balance any delay that might encourage some additional Tribes to apply against the impact on those Tribes that have applied already.<sup>22</sup>

15. *For yet another*, contrary to the assertions of a few,<sup>23</sup> any extension will likely delay the commencement of the 2.5 GHz commercial auction. We agree with T-Mobile that “currently unlicensed spectrum should be available to provide broadband services and not continue to lie fallow.”<sup>24</sup> Although NCAI asserts that the “2.5 GHz Commercial Auction is unlikely to begin until months after February 3,”<sup>25</sup> it appears to ignore the significant amount of work that will take place after the close of the Rural Tribal Priority Window and before the auction commences. Among other things, staff will review all applications filed within that window to determine whether they qualify under the rules adopted by the Commission, determine whether there are any instances of mutual exclusivity, accept properly filed applications and seek comment on them, adjudicate any disputes in the record and resolve any conflicts or concerns with pending applications, and ultimately award licenses to those applications. On top of all that, for any applications that are mutually exclusive, the Bureau “will put out a Public Notice listing the mutually exclusive applications and providing the applicants with a limited time settlement window of 90 days within which to resolve the mutual exclusivity prior to the applications going to a closed, single round, sealed bid auction.”<sup>26</sup> After this process is complete, the Bureau will have a final list of what spectrum in what areas will be available in the auction. In other words, we already anticipate that the commercial auction is unlikely to begin until a few months after February 3—and an extension of the filing window is likely to push out the commercial auction (and hence the commercial deployment of critical mid-band spectrum) even further. We must therefore balance any delay that might encourage some additional Tribes to apply against the impact such an extension will have on rural consumers wherever 2.5 GHz is currently unassigned and thus available for new fixed and mobile broadband operations.

16. We also disagree with several assertions in the record. *First*, we disagree with Public Knowledge’s claim that an additional 180 days is needed because even already-submitted applications “will need to be amended *before* the deadline” or else be dismissed<sup>27</sup>—a concern echoed in the NCAI motion that “any error in an application requiring a major amendment—such as insufficient documentation to support any element of the application—will result in the dismissal of the application

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<sup>21</sup> We also reject the argument of NCAI that the Commission could adequately accommodate Tribes that wish to deploy by issuing special temporary authority (STA). NCAI Motion at 36. We do not view STAs, which would require Tribes to make investment and deployment decisions without any assurance that the allowed use of spectrum is anything other than on a temporary, secondary, and non-interference basis, as an acceptable substitute for licenses issued in the filing window.

<sup>22</sup> We disagree with NCAI that we could simply set aside these concerns by processing applications coming in after August 3, 2020, on a rolling basis. NCAI Motion at 37. Whatever the merits of such a process, it is not the one contemplated by the Commission’s rules, which envision the creation of a single filing window followed promptly thereafter by an auction to commercial operators—not what would effectively be an initial 182-day filing window followed by another 182 single-day filing windows. Because we find this approach unworkable on the merits, we need not address NCAI’s argument that good cause exists for a waiver of the APA’s rulemaking requirements to adopt such an approach. *See id.*

<sup>23</sup> *See, e.g.*, NCAI Motion at 35.

<sup>24</sup> Letter from Steve B. Sharkey, Vice President, Government Affairs, Technology and Engineering Policy, T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission at 2 (filed July 30, 2020).

<sup>25</sup> *Id.*

<sup>26</sup> *Procedures Public Notice*, 35 FCC Rcd at 315, para. 26.

<sup>27</sup> Public Knowledge *Ex Parte* at 1.

with no ability to cure the deficiency.”<sup>28</sup> Such claims are incorrect. Applicants will be able to file minor amendments after the window closes, and such minor amendments include supplementation of documentation that Commission staff finds to be lacking after initial application review. Indeed, our own initial, informal review of pending applications suggests that most mistakes of the type cited by NCAI, such as the need for additional supporting documentation, can be cured by permissible minor amendments. As discussed in the *Procedures Public Notice*, major amendments are quite limited in scope—for example, changing the name of the applicant, adding additional areas, or adding new spectrum blocks—and the Commission staff is able to assist applicants ahead of the window closing to answer questions regarding these issues.<sup>29</sup>

17. *Second*, we disagree with Public Knowledge that eligible Tribes need to conduct land surveys before filing their application.<sup>30</sup> Commission staff have already used official Census Bureau records to create the rural Tribal land map shape files that are required to be included as part of the application, and Commission staff have made them available to applicants to upload as part of the application process. And both the Bureau of Indian Affairs and the State of Alaska are providing direct assistance to eligible entities that need help with shapefiles. To the extent any eligible Tribe chooses not to use that assistance or chooses to conduct a land survey of its own, it is of course free to do so but such decisions do not merit an extension given resources already available to eligible Tribes. Indeed, only applicants seeking to obtain spectrum beyond their eligible rural Tribal lands would need a shapefile other than the one provided by the Commission—and such waivers must be accompanied by a showing of good cause, which is notably absent from the motions before us here.<sup>31</sup> With respect to NCAI’s argument that Tribes that share Tribal land allegedly need additional time to coordinate their plans,<sup>32</sup> NCAI fails to present any specific examples of Tribes that are unable to apply because they have interest in the same rural Tribal land. Moreover, the *Procedures Public Notice* sets forth a process for resolution of any such overlap, or “mutual exclusivity,” after the application window closes.<sup>33</sup>

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<sup>28</sup> NCAI Motion at 12; *see also* Access Humboldt *Ex Parte* at 1 (“[T]he FCC has made it clear the agency will not allow any major application amendments after the deadline, essentially eliminating a Tribe’s opportunity to correct any mistakes.”).

<sup>29</sup> *Procedures Public Notice*, 35 FCC Rcd at 310, para. 9.

<sup>30</sup> Public Knowledge *Ex Parte* at 1-2; NCAI Motion at 17-18 (noting that Commission shape files do not match the maps of designated Tribal lands produced by the Bureau of Indian Affairs and claiming that the desire of some prospective applicants to file a waiver alongside their application necessitates an extension).

<sup>31</sup> NCAI also argues that granting an extension will allow the Commission to finish consideration of NCAI’s Petition for Reconsideration, which it argues is important because “tribal lands in urban and exurban areas not considered ‘rural’ under the FCC’s definition also have a lower rate of broadband availability than similarly situated residents of non-tribal lands.” NCAI Motion at 35. For the reasons explained at length above, including the impact of additional delay on those Tribes that have applied already, we find that it is not in the public interest to delay the close of the filing window until the Commission acts on NCAI’s petition for reconsideration. We further note that the NCAI Motion mischaracterizes that petition, which did not suggest that urban and exurban Tribal areas had lower rates of broadband availability (and proffered Seattle, Washington and Phoenix, Arizona as two areas it expected to add to the filing window, neither of which has particularly low broadband availability).

<sup>32</sup> NCAI Motion at 17-18.

<sup>33</sup> *Procedures Public Notice*, 35 FCC Rcd at 315, para. 26.

18. *Third*, we disagree with Public Knowledge that the cancellation of in-person events after the onset of the pandemic demands a 180-day extension.<sup>34</sup> As outlined at length above, the Commission planned for and conducted an extensive outreach program *before* the opening of the Rural Tribal Priority Window, with 22 separate events conducted before the window even opened, along with direct contacts made with every single eligible Tribe and Alaska Native Village, and letters sent to all eligible Tribes providing information about the filing window, links to the Commission’s 2.5 GHz Rural Tribal Priority Window website and mapping tool, and contact information where Tribes and Alaska Native Villages could get more details. Even after the window opened, Commission staff participated in an additional eight outreach events. More informally, Commission staff have fielded more than 780 inquiries from Tribes and other interested parties, answering questions and actively assisting Tribes in preparing and submitting their applications. In short, while we appreciate the value of in-person events, we were able to complete extensive and ongoing outreach to Tribes both before and during the window despite the ongoing pandemic.<sup>35</sup>

19. *Fourth*, we disagree with the repeated assertion in the NCAI Motion that “hundreds” of eligible Tribes were unaware of this opportunity and thus will be unable to participate in the existing filing window.<sup>36</sup> The Commission twice reached out to every single federally recognized Tribe and Alaska Native Village *before* the Rural Tribal Priority Window opened, and staff have diligently worked with every single eligible Tribe that has shown interest to facilitate the successful submission of an application. What is more, NCAI offers not evidence, but merely the generalized assertion, that *any* eligible and interested Tribe will be unable to apply with an earlier deadline—let alone hundreds. And to the extent NCAI does identify any such Tribes, we encourage those Tribes to contact the Bureau and ONAP immediately so we can assist them with the timely completion of their application.<sup>37</sup>

20. For all these reasons, we find that a 30-day extension should balance the precautionary need to give potential applicants additional time to submit an application and the harms to the timely filed applicants and the public at large stemming from a longer extension. By this order, the window is now extended and will close at 6:00 pm EDT on September 2, 2020.

#### IV. ORDERING CLAUSE

21. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended 47 U.S.C. § 154(i), that the motion for extension of time filed by the National Tribal Telecommunications Association on April 30, 2020 and the “Emergency Motion for Stay of 2.5 GHz Rural Tribal Priority Window” the National Congress of American Indians, AMERIND Risk

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<sup>34</sup> Public Knowledge *Ex Parte* at 1-2; NCAI Motion at 25-26; Access Humboldt *Ex Parte* at 1 (complaining that “the vast majority of application workshops intended to help [Tribes] were cancelled, as were other forms of in-person outreach”).

<sup>35</sup> We note that we have found our one-to-one outreach via phone has often been more productive in answering questions from prospective applicants than one-to-many events. And while NCAI notes endemic communications barriers in Tribal areas, NCAI Motion at 15-17, we have not found in our communications with Tribes desiring assistance the concern that a present lack of broadband connectivity would make applying during the existing filing window infeasible.

<sup>36</sup> NCAI Motion at 5, 9, 31-33.

<sup>37</sup> We also disagree with the comparison the Media Bureau’s decision under the Television Viewer Protection Act and the present situation. NCAI Motion at 37. There, Congress decided how long an extension would be if warranted. 47 U.S.C. § 562 (as added by section 1004(a) of The Television Viewer Protection Act of 2019, Pub. L. No. 116- 94, 133 Stat. 2534 (2019)) (“The [Commission] may grant an additional 6-month extension if [it] finds that good cause exists for such . . . extension.”). Here, we have discretion and must balance the possible benefits of a lengthy extension against its very real costs.



Management Corporation, The Southern California Tribal Chairmen's Association and Public Knowledge on July 21, 2020 ARE GRANTED IN PART to the extent that the deadline for filing applications in the 2.5 GHz Rural Tribal Priority IS EXTENDED TO 6:00 pm EDT on September 2, 2020. The motions ARE DENIED in all other respects.

22. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Donald K. Stockdale, Jr.  
Chief, Wireless Telecommunications Bureau