

January 22, 2020

Filed via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: Notice of *Ex Parte* Letter: WT Docket No. 18-120 and WT Docket No. 11-40

Dear Ms. Dortch,

Pursuant to Section 1.1206(b) of the Commission's rules, this submission is being filed for inclusion in the public record of the above-referenced proceedings. On December 19, 2019, the American Indian Policy Institute (AIPI) at Arizona State University (ASU) co-hosted a "Spectrum Sovereignty Workshop" with the National Tribal Telecommunications Association and Gila River Telecommunications, Inc. The workshop was held at the ASU Walter Cronkite School of Journalism located at 555 N. Central Ave., Phoenix, AZ, 85004.

Spectrum Sovereignty Workshop attendees included representatives from tribal governments, tribal government associations, and tribal telecommunications providers where they learned from facilitators how to file for spectrum licenses in the 2.5 GHz Educational Broadband Service and the details associated with the Tribal Priority filing window recently announced by the Commission.¹ Commission staff in attendance of the Workshop included: Barbara Esbin, Deputy Bureau Chief, Consumer and Governmental Affairs Bureau (CGB); Dana Shaffer, Deputy Bureau Chief and Chief of Staff, Wireless Telecommunications Bureau; Cecilia Sulhoff, Press Spokesperson and Outreach Coordinator, Wireless Telecommunications Bureau; and Susan Mort, Attorney-Advisor, Office of Native Affairs and Policy, CGB.

Attendee Recommendations and Comments:

Workshop Attendees praised the Commission for the opportunity to gain access to dormant 2.5 GHz spectrum over their lands through the adoption of a Tribal Priority and expressed eagerness to learn about the application process. During the workshop, tribes and tribal representatives also raised several critical concerns. First, attendees voiced opposition to the Commission's adoption of a rural Tribal Lands definition, which excludes Tribal lands that are not located in an urbanized area with a population of less than 50,000 people. Attendees stated that this decision abrogates the Commission's federal trust responsibility to all Tribal Nations – which applies regardless of population density – in that it arbitrarily and disproportionately affects Tribal Nations and their respective citizens and communities.

Second, attendees advocated that all future spectrum opportunities should be acted upon consistent with the trust responsibility the Commission has with all Tribal Nations. Attendees acknowledged that, while profoundly thankful for the welcome and important opportunity for

¹ See *Federal Communications Commission Announces 2.5 GHz Rural Tribal Window and Technical Workshop*, WT Docket No. 18-120, Public Notice (rel. Dec. 2, 2019).

Tribes to obtain dormant spectrum licenses over their lands, 2.5 GHz licenses are finite and a Tribal Priority should be analyzed for extension to all commercial licenses, given the communications challenges facing Tribal Nations. In light of the Commission's 2000 *Tribal Policy Statement*,² attendees emphasized that the management of spectrum over Tribal lands is analogous to the management of a trust asset for and on behalf of Tribal Nations, and that the expansion of a Tribal Priority would continue adherence to the Commission's commitment to its own federal trust responsibility to all Tribal Nations.

Third, attendees requested that the Commission take further action upon its open *Spectrum Over Tribal Lands* rulemaking proceeding.³ Attendees stated that the Tribal-specific proposals in WT Docket No. 11-40 would provide Tribal Nations with future opportunities to obtain spectrum licenses over their lands. Specifically, these include: (1) the aforementioned adoption of a Tribal Priority applicable to all commercial wireless spectrum licenses; (2) adoption of a build-or-divest process; (3) the structuring of a fair negotiation process for secondary market access between Tribal Nations and licensees over Tribal lands; and (4) other potential licensing solutions to provide opportunities for tribes to ensure wireless broadband buildout and access to all of their communities.

Attendees also praised the Commission for establishing a 182-day timeframe for the Tribal Priority filing window – consistent with a resolution adopted by Tribal Nations at the October 2019 Annual Convention of the National Congress of American Indians requesting a 180-day filing window.⁴ However, attendees emphasized that, to further ensure deployment of wireless broadband services, the Commission should address the aforementioned issues and take further action.

Sincerely,



Traci L. Morris, PhD
Director, American Indian Policy Institute

The views and opinions included in this letter are attendee views and do not necessarily reflect the views and opinions of Arizona State University.

² See *Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, 16 FCC Rcd 4078 (2000) (*Tribal Policy Statement*).

³ See *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, WT Docket No. 11-40, Notice of Proposed Rulemaking, 26 FCC Rcd 2623 (2011) (*Spectrum Over Tribal Lands NPRM*).

⁴ See National Congress of American Indians Resolution #ABQ-19-86C, "Providing for the Success of Tribal Nations in the 2.5 Gigahertz Broadband Tribal Priority for Wireless Networks". Available at <http://www.ncai.org/ABQ-19-086C.pdf>.