

**Congress of the United States**  
Washington, DC 20510

August 18, 2020

The Honorable Ajit Pai, Chairman  
Federal Communications Commission  
455 12<sup>th</sup> Street SW  
Washington, DC 20554

**Re: 30-day Extension Period — 2.5 GHz Rural Tribal Priority Window Order**

Dear Chairman Pai:

We write to express our deep concern regarding the Federal Communications Commission's (FCC) recent decision to grant a limited 30-day extension for the 2.5 GHz Rural Tribal Priority Window (Window) that was set to expire on August 3, 2020.<sup>1</sup> We request that the Commission immediately extend the deadline by no less than 180 days as Tribal nations continue to respond to the novel coronavirus (COVID-19) public health crisis.

Since the beginning of April, the Commission has received *numerous* requests to extend the 2.5 GHz Rural Tribal Priority Window for application by no less than 180 days from the August 3 deadline. Over the past four months, the Commission was made aware of this timely and widely supported request by bipartisan members of the United States Congress<sup>2345</sup>, the Assistant Secretary of Indian Affairs at the Department of the Interior<sup>6</sup>, Indian Tribes, and Native Hawaiian organizations. Additionally, an emergency motion was filed by national telecommunications and inter-Tribal government organizations to delay the close of the Commission's planned tribal spectrum auction due to the devastating toll that the COVID-19 pandemic is having in Indian Country<sup>7</sup>.<sup>8910</sup> Our request for the 180-day Window application extension period was also requested in person to the members of the Commission during

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<sup>1</sup> Federal Communications Commission, *2.5 GHz Rural Tribal Priority Window Extension Order*, Public Notice, WT Docket No. 18-120, DA 20-819 (July 31, 2020). <https://www.fcc.gov/document/25-ghz-rural-tribal-priority-window-extension-order>

<sup>2</sup> Letter from bipartisan Congressional Native American Caucus to FCC, Chairman Pai requesting COVID-19 2.5 GHz Rural Tribal Priority Window extension BY 180-days (Apr. 9, 2020).

<sup>3</sup> Letter from 18 U.S. Senators to FCC, Chairman Pai requesting 2.5 GHz Rural Tribal Priority Window extension by 180-days (May 19, 2020).

<sup>4</sup> Letter from 11 U.S. House Representatives and Senators to FCC Chairman Pai requesting 2.5 GHz Rural Tribal Priority Window extension by no less than 180-days (July 24, 2020).

<sup>5</sup> Written testimony of Rep. Deb Haaland for *Addressing the Urgent Needs of Our Tribal Communities*: Hearing on Broadband on Tribal Lands Before the H. Comm. On Energy and Commerce, 116<sup>th</sup> Cong. (July 6, 2020), expressing concern regarding FCC's refusal to grant 180-day extension to 2.5 GHz tribal priority filing window (Pub. July 8, 2020).

<sup>6</sup> Letter from Tara Sweeney, Assistant Secretary of Ind. Affairs, U.S. Dept. of Inter. to FCC, Chairman Pai requesting 2.5 GHz Rural Tribal Priority Window extension by 180-days (July 24, 2020).

<sup>7</sup> Emergency Motion for Stay of 2.5 GHz Rural Tribal Priority Window filed with Federal Communication's Commission (July 20, 2020). <https://ecfsapi.fcc.gov/file/1072172954611/Motion%20For%20Stay%20of%202.5%20GHz%20Tribal%20Window%20FINAL.pdf>

<sup>8</sup> Letter from T-Mobile to FCC Sec. Marlene Dortch requesting timeline extension for 2.5 GHz Rural Tribal Priority Window (July 30, 2020).

<sup>9</sup> Letter from Dept. Hawaiian Home Lands (DHHL) to FCC Chairman Pai and Commissioners requesting 12 mo. Rural Tribal Priority Window extension (April 3, 2020).

<sup>10</sup> Letter from Nat'l Cong. Am. Indians (NCAI) to FCC Chairman Pai requesting 2.5 GHz tribal priority filing window extension by 180 days (Apr. 22, 2020).

multiple congressional hearings in both the United States Senate and House of Representatives.<sup>1112</sup>

On Friday, July 31, 2020, the Commission published an order granting an extremely limited 30-day extension of this application deadline, which is 150 days fewer than prior requests from members of Congress and the U.S. Department of the Interior’s Assistant Secretary.<sup>13</sup> We find this very disconcerting as “the 2.5 GHz band is the single largest band of contiguous spectrum below 3 gigahertz [and is] prime spectrum for next-generation mobile operations, including 5G” on Tribal lands. Denying an extension for native communities to claim spectrum over their lands during this unprecedented pandemic is unconscionable. Tribes continue to encounter significant regulatory barriers that excluded them, as this order does, from the ability to effectively deploy wireless services.

We are deeply troubled with the Commission’s refusal to implement a 180-day Window extension, which lacks consistency with the agency’s recent decisions to delay Auctions 105 and 106 to allow all parties adequate time to prepare and participate during this pandemic.<sup>14</sup> However, in this case, a review of the docket reveals no proposals or support for a limited 30-day extension. Further, both non-tribal telecom advocates, and the FCC’s Native Nations Communications Task Force, support a longer Window extension. This aligns with native communities’ request for a 180-day extension and the Commission’s similar pandemic extensions.<sup>15</sup>

Contrary to the Commission’s July 31 order, this Window extension will not impede the timeline of Tribes that have previously filed for licenses, as the Commission can grant immediate special temporary authority to empower Tribes to proceed with immediate buildout. It is unacceptable that sovereign Tribal Nations are not provided adequate time by the Commission to apply for access to unassigned spectrum over their Tribal lands. This is a failure of the Commission’s trust responsibility to Tribal Nations and its unique responsibility on Hawaiian Home Lands.

We request that the Commission immediately extend the Rural Tribal Priority Window deadline by no less than 150 days, for a total of 180 days. Given the burden that the COVID-19 pandemic is placing on Tribal communities, we hope that our offices can work together to appropriately address our shared goal of closing the digital divide in Indian Country.

Sincerely,

/s/ Martin Heinrich  
Martin Heinrich  
*United States Senator*

/s/ Deb Haaland  
Deb Haaland  
*Member of Congress*

<sup>11</sup> *Oversight of the Federal Communications Commission: Hearing on Rural Tribal Priority Window Before the S. Comm. On Commerce, Science, & Transp., 116<sup>th</sup> Cong. (June 24, 2020) (Stmnt. of Senator Sinema at 3:29).* <https://www.commerce.senate.gov/2020/6/oversight-of-the-federal-communications-commission>

<sup>12</sup> *Addressing the Urgent Needs of Our Tribal Communities: Hearing on Broadband on Tribal Lands Before the H. Comm. On Energy and Commerce, 116<sup>th</sup> Cong. (July 6, 2020).* (See member stmnts. and witness testimony). <https://energycommerce.house.gov/committee-activity/hearings/full-committee-hearing-on-addressing-the-urgent-needs-of-our-tribal>

<sup>13</sup> See *Id.* notes 3,4, and 6.

<sup>14</sup> See Federal Communications Commission, FCC Changes Upcoming Auction 105 Schedule, Postpones Auction 106: Adjustments Made in Light of COVID-19 Pandemic (Mar. 25, 2020) (press release).

<sup>15</sup> *Id.*

/s/ Maria Cantwell  
Maria Cantwell  
*United States Senator*

/s/ Tom Cole  
Tom Cole  
*Member of Congress*

/s/ Tom Udall  
Tom Udall  
*United States Senator*

/s/ Don Young  
Don Young  
*Member of Congress*

/s/ Jacky Rosen  
Jacky Rosen  
*United States Senator*

/s/ Ruben Gallego  
Ruben Gallego  
*Member of Congress*

/s/ Tina Smith  
Tina Smith  
*United States Senator*

/s/ Raúl M. Grijalva  
Raúl M. Grijalva  
*Member of Congress*

/s/ Elizabeth Warren  
Elizabeth Warren  
*United States Senator*

/s/ Derek Kilmer  
Derek Kilmer  
*Member of Congress*

/s/ Ron Wyden  
Ron Wyden  
*United States Senator*

/s/ Anna G. Eshoo  
Anna G. Eshoo  
*Member of Congress*

/s/ Jeffrey A. Merkley  
Jeffrey A. Merkley  
*United States Senator*

/s/ Susan K. DelBene  
Suzan K. DelBene  
*Member of Congress*

/s/ Mazie K. Hirono  
Mazie K. Hirono  
*United States Senator*

/s/ Jared Huffman  
Jared Huffman  
*Member of Congress*

/s/ Mark R. Warner  
Mark R. Warner  
*United States Senator*

/s/ Greg Stanton  
Greg Stanton  
*Member of Congress*

/s/ Tim Kaine  
Tim Kaine  
*United States Senator*

/s/ Betty McCollum  
Betty McCollum  
*Member of Congress*

/s/ Kamala D. Harris  
Kamala D. Harris  
*United States Senator*

/s/ Ed Case  
Ed Case  
*Member of Congress*

/s/ Amy Klobuchar  
Amy Klobuchar  
*United States Senator*

/s/ Ben Ray Luján  
Ben Ray Luján  
*Member of Congress*

/s/ Cory A. Booker  
Cory A. Booker  
*United States Senator*

/s/ Steven Horsford  
Steven Horsford  
*Member of Congress*

/s/ Angus S. King, Jr.  
Angus S. King, Jr.  
*United States Senator*

/s/ Sharice L. Davids  
Sharice L. Davids  
*Member of Congress*

/s/ Catherine Cortez Masto  
Catherine Cortez Masto  
*United States Senator*

/s/ Patty Murray  
Patty Murray  
*United States Senator*

/s/ Edward J. Markey  
Edward J. Markey  
*United States Senator*

/s/ Brian Schatz  
Brian Schatz  
*United States Senator*

/s/ Richard Blumenthal  
Richard Blumenthal  
*United States Senator*