

February 13, 2024

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

Re: Expanding Flexible Use of the 12.2-12.7 GHz Band,  
WT Docket No. 20-443  
Expanding Use of the 12.7-13.25 GHz Band for Mobile Broadband  
Or Other Expanded Uses,  
WT Docket No. 22-352

Dear Ms. Dortch:

On Friday, February 9, 2024, Harold Feld, Senior Vice President, Public Knowledge, Matthew Rantanen, Vice President, Tribal Broadband, Sascha Meinrath, Palmer Chair in Telecommunications, Penn State University, and Michael Calabrese, Director of Wireless Future at the Open Technology Institute (collectively “Tribal advocates”), met virtually with Commissioner Brendan Carr and his Chief of Staff Greg Watson with regard to the above captioned proceedings.

Tribal advocates explained that as a consequence of access to 2.5 GHz licenses, unlicensed spectrum, and CBRS “tiered access” spectrum, many tribes are now capable of building fixed point-to-point and point-to-multipoint wireless networks on tribal lands. Tribal advocates described “Broadband Bootcamp,” a program that educates tribal members on how to build, operate and maintain wireless networks.

Tribal advocates urged the Commission to adopt a Tribal Priority Window (TPW) in Docket No. 22-352. Tribal advocates requested the following changes from the 2.5 GHz TPW. The Commission should use the definition of Tribal land<sup>1</sup> in 47 C.F.R. § 73.7000, rather than the definition in 47 C.F.R. § 54.5. The definition in Rule 54.5 excludes Tribal trust land, excluding from coverage areas with Tribal residents. Additionally, the Commission should award licenses to cover all Tribal land, without limiting the coverage to “rural” Tribal lands as it did in the 2.5 GHz proceeding.

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<sup>1</sup> The term “Tribal lands” in this *ex parte* includes Alaskan Native Corporations and Hawaiian Native Homelands.

The combined exclusions of using the more restrictive definition of Tribal land in Rule 54.5 and excluding any portion of Tribal land in the vicinity of a population center of 50,000 or more foreclosed as many as half the Federally recognized Tribes from participating. Additionally, many Tribes could not cover significant portions of their Tribal lands because of proximity to population centers such as Phoenix. As Tribal advocates explained, however, this proximity to a population center does not lead to being served by a non-Tribal provider. Providers end coverage at the Reservation border, and excluding an area of Tribal land from license coverage means that portion of the Reservation remains unserved.

With regard to Docket No. 20-443, Tribal advocates urged that the Commission grant the expanded terrestrial spectrum rights sought by the MVDDS licensees, contingent on partitioning spectrum on Tribal lands (using the definition in Rule 73.7000 and without restricting applicability to “rural” Tribal lands) and conveying the license covering Tribal lands to Tribal governments. This would recognize Tribal sovereignty over an important natural resource on Tribal lands. Additionally, as demonstrated by the 2.5 GHz TPW, giving Tribes the license rather than relying on a non-Tribal licensee allows Tribes to build their own networks, maximizing affordable access and connectivity for Tribal governments, Tribal educational institutions, and Tribal cultural institutions.

Additionally, conveying a license to Tribes is an important element of financing Tribal networks. Because Tribal lands are held in trust, they cannot serve as collateral for loans. FCC licenses, however, are accepted by banks and other lending institutions as collateral. Holding a license, not merely permission to use spectrum, is therefore not merely a matter of semantics or even a matter of Tribal sovereignty. Holding a license opens doors to needed capital to build the network.

To the extent MVDDS licensees express concern as to possible interference with services offered off of Tribal lands, Tribal advocates observed that the Commission is considering point-to-point and point-to-multipoint services, not mobile service. This makes it simple for Tribes to avoid significant leakage of RF energy outside of Tribal lands, let alone in a manner that would interfere with services offered by licensees.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed with your office. If you have any further questions, please contact me at (202) 861-0020.

Respectfully submitted,

/s/ Harold Feld  
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cc: Commissioner Brendan Carr  
Greg Watson