



HAVASUPAI TRIBAL COUNCIL

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FCC Mail Room

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May 31, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Washington D.C. 20554

Submitted electronically via ECFS at: <http://apps.fcc.gov/ecfs/>.

Re: Comments Concerning May 10, 2018 Notice of Proposed Rulemaking

Dear Secretary Dortch:

On behalf of the Havasupai Tribe, whose Chairwoman I am, I am pleased to have this opportunity to comment on the May 10, 2018 "Notice of Proposed Rulemaking regarding WT Docket No. 18-120 "In the Matter of Amendment to Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands-Transforming the 2.5 GHz Band."

By way of background, the Havasupai people live in the most remote community in the contiguous 48 states, Supai Village, AZ, which is located in the bottom of the Grand Canyon. Our village, which is home to about 800 members of the Tribe, can only be reached by an 8-mile hike or horse ride into the depths of the canyon, or by helicopter.

With this extreme isolation comes a unique set of challenges. All of life's necessities have to be purchased in towns hours away from the Reservation, then packed-in on horseback or helicoptered the last 8 miles to the village. This makes shopping for even the simplest things expensive and time-intensive, often consuming whole weekends. Economic opportunities are extremely limited, being located so far away from the nearest city.

Most of all, educational possibilities for the Tribe's children are restricted to a Head Start and an elementary school operated by the Bureau of Indian Education. This BIE school has consistently ranked the last in the United States for educational attainment, with zero percent of the students having reached proficiency in reading or mathematics in the last several years. It is not an overstatement to say that the Tribe is concerned about its future which rests in the hands of these children whose education is dependent a system that is failing.

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This was the Tribe's primary motivation when it contacted MuralNet, a non-profit that helps organizations, including tribes, utilize the Educational Broadband Service (EBS) to provide high speed internet to rural communities. On May 23, the Tribe's temporary license to utilize a small part of the EBS was extended for 6 months by the FCC. Unless our pending application for a permanent license is granted before November, we will again be applying for another six month extension, and submitting another round of support letters and certifications, an onerous cycle to repeat every six months.

With the assistance of MuralNet, the Tribe is now able to utilize the EBS to provide broadband service to students and teachers' homes, bringing a whole world of economic and educational possibilities to the Tribe and its children. This means real, concrete gains for the Havasupai People. The Havasupai Tribe would like other tribes to have the same opportunities as we have. Because of this, the Tribe is taking the time to write to encourage you to:

- 1) Grant primacy in local priority filings to rural tribal governments;
- 2) Restrict Uses of the EBS to those Consistent with its Purpose; and
- 3) Implement Geographic Service Areas ("GSA") that actually reflect the needs and range of the licensees and public, rather than assigning GSAs based on arbitrary geographic or population quotas.

Implement Local Priority Filing Windows for Tribes

Your Notice of Proposed Rulemaking includes a proposal to open up a first filing window on the newly reopened 2.5 GHz spectrum to first, existing licensees; second, rural tribal nations, and; third, new educational entities. The Tribe supports the concept of giving first priority to each of these three groups, but would suggest that the priority be reordered, giving first priority for tribes, second priority to new educational institutions, and third priority to organizations that already have existing licenses.

Rural tribes should be given first priority for the available space on the spectrum for several reasons. Tribal reservations are the least internet-connected places in America, a recent study by Politico found. (<https://www.politico.com/agenda/story/2018/02/07/rural-indian-reservations-broadband-access-000628>). About 35% of Americans living on Indian Reservations lack access to broadband internet, Politico wrote. This is higher than any other demographic in the United States. On the Navajo Nation, our neighbors to the East, Navajo Tribal Utility Authority estimates that 32% of homes lack electricity.

Yes, these statistics indicate poverty and isolation, but the lack of infrastructure that they reflect, perpetuates this poverty by denying educational and economic opportunities to the poorest communities in the United States. Imagine how disadvantaged a student is who does not even have an electric light bulb to read and do homework by, much less broadband internet access to conduct research.

This gap can be bridged, in large part, by opening up the spectrum to new licenses by rural tribal governments, and by giving them first priority. This is a situation where the people who need EBS spectrum the most are also the least likely to be able to obtain them, if auctioned-off or if first priority is given to others.

If first priority is given to existing license holders, as currently proposed by the FCC, then the license holders who have the most resources are most likely to obtain the portions of the spectrum that they estimate will be profitable (either now or speculatively). While the reservations GSAs are not likely to be in this group, there is a very real possibility that some tribes will be unable to license spectra over their reservations that would otherwise be able to, elbowing out the least advantaged groups who most badly need the broadband.

The Tribe also opposes placing requirements that any spectra licensed to Tribes be utilized in a certain way or within a certain deadline. That would effectively make a measure that is intended to help lift tribes out of poverty, and use it to then penalize them for not having the resources the immediately develop them.

This filing window should be made available to tribal governments in areas that are not already served by broadband (so not urbanized locations) and in rural places (as defined by their distance from major urban centers and not by population density, as some Reservation communities are small and densely populated, but nonetheless lack basic infrastructure). The GSA criteria should not be how much of the area covered is controlled by the Tribe, but by whether a significant portion of the tribe's population will be served by the proposed GSA.

Second priority should be given to new educational institutions who have never had an opportunity to license the EBS spectrum. This makes sense because it honors the primary purpose of the EBS spectrum and because it ensures that the newly available spectrum will be used for the public good.

Restrict Uses of the EBS to those Consistent with its Purpose

In fact, the Tribe would propose that rather than loosening restrictions governing the uses of the EBS and sub-leases by licensees to private, commercial users, that these subleases be eliminated and that the EBS be reserved only for educational or public uses. In the alternative, educational uses or public good uses should be prioritized over private or commercial leases such that commercial leases are made short-term and renewal will be contingent upon the absence of a pending application for a use that is consistent with the purposes of the EBS. As noted in the Notice of Proposed Rulemaking at Para. 43, broadband service providers are requiring "progressively wider channels". Because broadband is the trend, it does not make sense to fill up all of the white space now, and then not have enough spectrum for broadband services later. In it rush to efficiently utilize all of the EBS, FCC needs to leave space for the future.

Implement Geographic Service Areas ("GSA") that actually reflect the needs and range of the licensees and public, rather than assigning GSAs based on arbitrary geographic or population quotas.

The Proposed Rule suggests two possibilities for amending GSAs, in an effort to utilize a greater portion of the spectrum while eliminating so-called "white space", namely by licensing GSAs on a census tract-by-tract basis or on a county-by-county basis. While this would make it easier to identify and fill white spaces, thereby resulting in a more complete utilization of the EBS spectrum, assigning GSAs by lines drawn on a map or by population density ignores several problems.

Primarily, radio broadcasting reaches its audience in a more or less circular fashion, radiating out from a central broadcast tower and from repeater towers. By contrast, very few counties have circular boundaries. Licensing by county boundaries will create many overlapping broadcast areas. Community colleges, universities and school districts also serve more than one county. Many reservations and other tribal lands span multiple counties. County demographics are also widely diverse, which will create an imbalance in the value of these licenses and the parties interested in obtaining them. For instance, it would not make sense to only create one EBS license GSA for Los Angeles County with a population of over 10 million (more than 41 of the remaining 50 states) or for Coconino County (which includes our reservation) with an area of 18,661 square miles (larger than 6 states). On the other hand, it would not be very efficient to issue GSAs limited to the size of the smallest counties in country, like Kalawao County, HI with a total size of 13 square miles and a population of only 88 people.

Divvying up GSAs by census tracts makes slightly more sense, but it still ignores the circular way that radio signals are transmitted and may still fail to accurately serve the needs of various school districts and tribes.

Rather, the Tribe recommends that GSA sizes be assigned on an ad hoc basis, tailored to fit the needs of each applicant. Criteria that could be used to evaluate this include:

- What services the applicant seeks to provide through their EBS license?
- Who are the target recipients of those services and where are they located?
- How much of the available EBS spectrum will the applicant use to provide the specified educational or public interest services?
- What broadcast or distribution capabilities does the applicant have, or reasonably anticipate having? (with a waiver of this criteria for Tribes or other extremely rural or economically depressed communities); and
- What percentage of the target population will be served by the proposed size of the GSA?

The Tribe hopes that this revisions of the rules governing the licensing of the EBS spectrum is the product of an earnest desire to better provide educational services to all Americans and not motivated out of a desire to privatize what should be a public good. We reserve the right to supplement this comment later in the rulemaking process, and

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Uqualla".

Havasupai Tribe

Tim Uqualla, Acting Vice-Chairman for
Muriel Coochwytewa, Chairwoman

Cc.: Councilmembers
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