



July 26, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, S.W.  
Room TW-A325  
Washington, DC 20554

Re: WT Docket No. 18-120

Dear Ms. Dortch:

Native Public Media (NPM) respectfully submits these Comments in response to the above-captioned Notice of Proposed Rulemaking (“NPRM”) for Transforming the 2.5 GHz Band.

NPM is a nonprofit organization that encourages Native Americans across the United States to participate actively in all forms of media. NPM is an established leader in communications policymaking, and advocates policies that encourage the expansion and strengthening of native choices through media platforms that are community based, local and democratic. NPM’s Reply Comments in response to the Commission’s 2004 Further Notice of Proposed Rulemaking regarding the Broadband Radio Service and Educational Broadband Service, 19 FCC Rcd. 14165 (2004) are the basis for Commission proposals in the current NPRM.

NPM agrees with the Commission on the bedrock principle that “members of federally-recognized American Indian Tribes and Alaska Native Villages and other residents of Tribal lands have lacked meaningful access to wired and wireless communications services.” See NPRM, paragraph 35. The following Comments flow directly from that principle.

#### **I. Give the First Priority Window to Indian Tribes and Tribal Governments**

a. NPM fully supports the FCC’s proposal to open a filing window exclusively for Indian Tribes and Tribal Governments, NPRM, paragraph 35. NPM, however, proposes that this window should be the *first* priority window. Instead of enhancing the *status quo*, the FCC should address the acknowledged lack of access to communications services on Tribal lands by giving Tribes the first filing opportunity.

b. A first priority window for new EBS licenses would be consistent with the “Tribal Priority” created for broadcast licenses. *See e.g. In the Matter of Amendment of Section 72.202(b) Table of Allotments FM Broadcast Stations (Connerville, Oklahoma)*, Report and Order (Proceeding Terminated), MB Docket No. 18-43, July 5, 2018 (<https://ecfsapi.fcc.gov/file/0706059276484/DA-18-699A1.pdf>)

#### **II. The FCC Should Use the Definition of “Tribal Applicant” and “Tribal Lands” in 47 CFR § 73.7000**

a. The FCC proposes to limit eligibility in the priority window for Indian Tribes and Tribal Governments to “federally recognized American Indian Tribes and Alaska Native Villages

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located in rural areas,” and asks for comment on how to define a Tribal Applicant and Tribal Lands. There is no need to create new definitions when these terms are already defined in 47 CFR § 73.7000. The existing definitions of Tribal Applicant and Tribal Lands accomplish the FCC’s goal of “ensur[ing] that the only entities eligible to participate in this filing window are entities that meet our definition of a Tribal Nation, and whose Tribal lands are lands where tribal members reside as a group and are not used for purely commercial purposes,” NPRM, paragraph 36.

b. NPM agrees that giving Tribes the opportunity to participate in a top priority window is consistent with the federal government’s special trust relationship with Indian Tribes, NPRM, paragraph 36. However, nothing limits the trust relationship to rural areas within Tribal lands, nor does it justify giving incumbent licensees rather than Tribes the right to serve Tribal lands.

### **III. Rationalizing Geographic License Areas Should Not Be Done at the Expense of Tribal Lands**

NPM does not support an expansion of the service areas of incumbent EBS licensees if that expansion would encroach on Tribal land, but otherwise supports the goal of rationalizing the Geographic Service Areas of existing EBS licenses. Tribes would effectively be shut out of EBS licensing if existing EBS contours are “rationalized” to cover Tribal land.

Native Public Media thanks the Commission for an informed opportunity to comment on proposed changes regarding EBS spectrum; and looks forward to meaningful Tribal consultation consistent with the Commission’s 2000 commitment to Tribes.

Respectfully submitted,



NATIVE PUBLIC MEDIA  
Loris A. Taylor  
President and CEO