

Congress of the United States
Washington, DC 20515

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July 30, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC, 20554

Dear Chairman Pai,

We write to respectfully request that the Federal Communications Commission (FCC) extend the 2.5 GHz Rural Tribal Priority Window, which opened on February 3, 2020 and closes August 3, 2020, by 180 days. In making this request, we join a growing group of voices asking for an extension of this important opportunity, including the National Congress of American Indians, at least eighteen U.S. Senators, the National Consumer Law Center, the Benton Institute for Broadband and Society, and more than a dozen additional advocacy and community development organizations.¹ Extending the 2.5 GHz Rural Tribal Priority Window is essential for ensuring that Virginia tribes and tribes across the nation have a fair opportunity to develop their applications given their capacity challenges and obligations under the current national crisis resulting from the coronavirus pandemic. At the same time, we encourage you to issue an Auction Procedures Public Notice to ensure that the auction stays on track for 2021.

As you know, in July 2019 the FCC adopted rules to bring unused 2.5 GHz spectrum, previously used by educational institutions, to auction. Recognizing a persistent lack of broadband connectivity in tribal lands, the FCC established a “priority window” to allow tribes to access these important areas of spectrum in rural areas that have long been underserved by telecommunications access. Tribal need for better broadband is acute. As the FCC’s 2019 Tribal Broadband Report has demonstrated: 36% of tribal households—about 628,000 households nationwide—do not have access to any broadband at standard speeds. In comparison, the same is true for only 8% of non-tribal households. Furthermore, the issues may be even more significant than they appear, as the Government Accountability Office (GAO) has observed that FCC broadband data overstates service in tribal communities.

¹ https://www.publicknowledge.org/wp-content/uploads/2020/07/CongressionalLetter_PaloneWalden_7.06.2020_Final-1.pdf,
https://www.heinrich.senate.gov/download/5-19-2020_fcc-spectrum-policy-letterpdf,
<https://www.king.senate.gov/newsroom/press-releases/king-urges-fcc-to-ensure-rural-tribal-communities-have-equal-internet-access>

Our Virginia tribes have faced significant internet and cellular connectivity challenges due to their rural locations. These challenges have even greater implications in the current COVID-19 pandemic, and represent an ongoing equity issue in our Commonwealth. Virginia tribes have been working tirelessly to keep their tribal citizens safe, housed, and fed during an unprecedented global pandemic. At the same time, they are facing difficulties with reliable cellular connection and face issues accessing online video conferencing platforms that are being used to continue local, state, and federal governmental processes. Several tribes experience issues when transferring, uploading, and downloading large files.

The window deadline and the pandemic are coinciding at a particularly difficult time because our federally recognized Virginia tribes are some of the most recently recognized in the nation. Six of our federally-recognized tribes (the Chickahominy Indian Tribe, Chickahominy Indian Tribe - Eastern Division, the Monacan Indian Nation, the Nansemond Indian Tribe, the Rappahannock Indian Tribe, and the Upper Mattaponi Indian Tribe) received federal recognition from the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, which was signed into law on January 29, 2018 by President Trump. One tribe, the Pamunkey Indian Tribe, received federal recognition through the Bureau of Indian Affairs with a decision effective on January 28, 2016. As a result, along with facing the sudden needs of their communities related to COVID-19, our tribal governments are also in the process of applying for many federal grants and establishing federal programs for the first time. Most of the tribes have a meager number of paid staff members, which limits their capacity to accomplish a significant amount of tasks in a very short period of time, especially when the majority of the available spectrum window opportunity has occurred in the midst of the pandemic. Many tribal leaders in Virginia serve their communities on a volunteer basis.

The 2.5 GHz window represents a once in a lifetime opportunity for tribes to acquire spectrum and is a major initiative of your tenure as Chairman. You recognized the importance of this opportunity on June 23rd, when you wrote to Senator Blumenthal that one of your "top priorities as Chairman has been to bring digital opportunity to all Americans, particularly those in rural and Tribal communities."² We are concerned that unless you extend the tribal priority window, some tribes will not have the benefit of submitting their applications for consideration. Given the rarity of these priority windows and the significant opportunity provided by this auction, we ask you to please extend the deadline to allow the maximum possible number of tribes to participate.

Accordingly, we urge you to extend the Rural Tribal Priority Window until February 1st, 2021, while not delaying further necessary proceedings associated with the auction in order that it stay on track.

Thank you for your prompt attention to this request.

² <https://docs.fcc.gov/public/attachments/DOC-365273A1.pdf>

Sincerely,

/s/

Mark R. Warner
United States Senator

/s/

Tim Kaine
United States Senator

/s/

Robert C. "Bobby" Scott
Member of Congress

/s/

Robert J. Wittman
Member of Congress

/s/

A. Donald McEachin
Member of Congress

/s/

Abigail D. Spanberger
Member of Congress