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Federal Communications Commission's Rural Tribal Priority Window Opens Monday, Feb. 3

Jan. 30, 2020 — On Monday, Feb. 3, the Federal Communications Commission will be opening the Rural Tribal Priority Window for tribes that will allow them to access available fallow spectrum located on rural tribal lands. During this six-month window, which will remain open until Aug. 3, qualifying tribal applicants may apply for one or more vacant channels of 2.5 GHz band spectrum.

If a tribe obtains a 2.5 GHz spectrum license, it may effectively use its available spectrum by constructing and developing its own wireless broadband network. A qualifying tribe also may obtain the license and lease its spectrum to third parties, such as internet service providers.

Spectrum, in the context of the telecommunications industry, refers to invisible radio frequencies over which wireless electromagnetic signals can travel to convey information across a telecommunication network. Radio waves or spectra can carry analog or digital information from one point to another as long as telecommunications networks that transmit such information using radio frequencies are in place and operating.

“Radio spectrum is the lifeblood of all wireless networks, such as cellular networks and Wi-Fi networks, because it enables communication signals to travel across open distances without wired infrastructure,” said Jeremy Patterson, Fredericks Peebles & Patterson attorney and partner. “This is an important opportunity for rural tribes west of the Mississippi River, as most of the 2.5 GHz band remains unassigned and unlicensed in these areas.”

What is the FCC's role?

- The FCC regulates the use of spectrum by issuing spectrum licenses to licensees for certain uses.
- The FCC monitors spectrum usage to prevent unauthorized transmissions and signal interference.
- The radio spectrum band that the FCC is making available for Indian tribes to obtain a license is called the 2.5 GHz band, which extends from 2496 to 2690 MHz.

What can spectrum be used for?

- With radio spectrum of the 2.5 GHz band, Indian tribes and/or internet service providers can deploy 5G networks within tribal lands that can support many wireless technology services, such as telemedicine, cellular phones, precision agriculture, cloud storage, and the Internet of Things.
- Aside from its commercial uses, the 2.5 GHz band can be used for educational, public health, and governmental purposes.

- According to one study, 5G technology has the potential to create 3 million new jobs, \$275 billion in private investment, and \$500 billion in new economic growth.

What can a tribe do with a license?

- If an Indian tribe obtains a 2.5 GHz spectrum license, that tribe may construct and develop its own wireless broadband network to effectively use its available spectrum.
- If a tribe decides not to construct and develop its own wireless network and if the tribe receives a 2.5 GHz band license, then that tribe will have the ability to lease its spectrum to third parties, such as internet service providers.

What is the “Rural Tribal Priority Window?”

- The FCC is creating a priority filing window during which qualifying tribal applicants will have the opportunity to apply for one or more vacant channels of 2.5 GHz band spectrum, as long as the tribal applicant meets certain requirements.
- The Rural Tribal Priority Window will last for six months, from **Monday, February 3, 2020** to **Monday, August 3, 2020**.
- More details about the application process can be found in the public notice located here: <https://docs.fcc.gov/public/attachments/DA-20-18A1.pdf>.

Where will spectrum be available through the window?

- Spectrum will only be available in geographical areas where there are unassigned portions of the 2.5 GHz band, which is comprised of twenty (20) channels that are used for Educational Broadband Services.
- Most of the 2.5 GHz band remains unassigned and unlicensed in much of the United States, especially in rural areas west of the Mississippi River.
- The FCC released a map that shows where 2.5 GHz spectrum is available for the upcoming window, available at <https://www.fcc.gov/25-ghz-rural-tribal-maps>.

What are the eligibility requirements to obtain a license?

- The eligibility requirements for potential applicants during the upcoming window impose two sets of criteria. First, the applicant itself must meet certain requirements. Second, the land for which the applicant seeks an assignment must also meet requirements.
- Applicant requirements:
 - All applicants must be federally recognized Indian tribes or telecommunications providers that are owned or controlled by a federally recognized tribe or a consortium of such tribes.
 - All applicants must demonstrate they have a local presence in the tribal lands for which they seek licenses.
- Land requirements:
 - The land must fall within the definition of tribal lands found at 47 C.F.R. § 54.5.

- The tribal lands must be rural lands. (The FCC considers tribal lands rural if they are not part of an urbanized area or an urban cluster area with a population equal to or greater than 50,000 people.)
- In addition, eligible tribal applicants must commit to buildout requirements before obtaining a spectrum license.

“Prior to the opening of the Rural Tribal Priority Window on Monday, Feb. 3, tribes can monitor the FCC website for updates,” Patterson said. “If a tribe is interested in applying for a spectrum license, it may register for an FCC Registration Number (FRN) through the FCC’s website.

“Only tribal applicants who have an FRN may apply for the upcoming Window, because the FCC will only accept applications through its Universal Licensing System portal via its website.” he continued. “Fredericks Peebles & Patterson is available to advise interested tribes throughout the application process, as well as to facilitate related business transactions and economic development. We have the expertise and experience to assist tribes in these endeavors.

Fredericks Peebles & Patterson has offices in Sacramento, California; Louisville, Colorado; Rapid City, South Dakota; and Washington, D.C. To learn more, visit www.ndnlaw.com.

Fredericks Peebles & Patterson LLP is dedicated to the representation of American Indian tribes and Native American organizations throughout the United States. Legal services include a wide spectrum of services related to Indian concerns in the areas of business transactions, litigation, and governmental affairs.

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