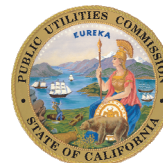


PUBLIC UTILITIES COMMISSION

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VIA ELECTRONIC MAIL

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Subject: Comments to the Office of Management and Budget in response to the Federal Communications Commission's request for emergency processing of the information collection requirement(s) contained in their *Report and Order on Transforming the 2.5 GHz Band*

OMB Control Number: 3060-1094.

Title: Transforming the 2.5 GHz Band.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

I. INTRODUCTION

The California Public Utilities Commission (CPUC) submits these comments to the Office of Management and Budget (OMB) in response to the Federal Communications Commission's (FCC's) request for emergency processing of the information collection requirement(s) contained in their *Report and Order (Order) on Transforming the 2.5 GHz Band*¹ and their request for OMB approval no later than 35 days after the collection is received at OMB.

The CPUC strongly supports the FCC's adoption of a Tribal priority window for Tribal entities to obtain Educational Broadband Service (EBS) licenses on Tribal lands in rural areas to address the communications needs of their communities and residents. The CPUC commends the FCC for recognizing the Tribal need for and interest in EBS licenses. However, we have some concerns about the timeline and relation of the timeline to the Paperwork Reduction Act. The CPUC's concerns include:

¹ FCC Report and Order on Transforming the 2.5 GHz <https://www.fcc.gov/document/fcc-transforms-25-ghz-band-5g-services-0>.

- 1) The need for sufficient time to engage with and inform Tribes, including time to gather data and provide it to the FCC;
- 2) Tribes need time to plan networks that use spectrum in the 2.5 GHz Band; and
- 3) The critical need for EBS spectrum to provide Tribes an opportunity to subsidize their licensed fixed wireless deployments with California Advanced Services Fund.

II. DISCUSSION

1) **There should be sufficient time to engage with and inform Tribes, including time to gather data and provide it to the FCC.**

California is home to 109 of the 573 Tribes recognized by the federal government. A California-based non-profit, MuralNet, estimates that 58 of these California tribes are eligible to claim some 2.5 GHz spectrum based on the FCC's rural Tribal lands criteria in the Report and Order ("Order").²

In addition to the FCC's Tribal Consultation³ policy, California's state statute⁴ and policy⁵ require Tribal consultation. Moreover, the CPUC has its own Tribal consultation policy⁶ and is currently engaged in several consultations across the state. The Order cites comments proposing a 90-day notice period and 60-day period to file applications.⁷ Federal and state policies mandate, or at least favor, more time to inform, engage with, and consult Tribes.

Most recently, on September 16, 2019 at a Consultation hosted by the Tuolumne Mi-Wuk, and on September 30, 2019 at a consultation hosted by the Blue Lake

² California Broadband Council July 18, 2019 meeting. MuralNet presentation. <https://broadbandcouncil.ca.gov/wp-content/uploads/sites/68/2019/08/California-Broadband-Council-Meeting-July-2019-v2.pdf>.

³ <https://www.fcc.gov/document/matter-statement-policy-establishing-government-t0>.

⁴ Assembly Bill 52 (2014) requires that public agencies consult with California Native American tribes that are on the Native American Heritage Commission's (NAHC) consultation list that are traditionally and culturally affiliated with the geographic area of proposed projects subject to the California Environmental Quality Act (CEQA).

⁵ Executive Order B-10-11 directs state executive agencies and departments to "encourage communication and consultation with California Indian Tribes.

⁶ On April 26, 2018, the California Public Utilities Commission adopted its first Tribal Consultation Policy. It provides a first right of refusal to California Native American tribes or groups where investor owned utilities seek to divest surplus property outside of FERC project boundaries. It also requires IOUs to affirmatively consult with tribes where the surplus property proposed to be divested is within the tribes' aboriginal territory.

⁷ F.C.C., Transforming the 2.5 GHz Band, Report and Order, WT Docket No. 18-120, at paragraph 61

Rancheria, various California Tribes expressed interest in applying for EBS spectrum, and *more time* to inform and consult with their respective Tribal Councils.

As one of the state's largest grantors of broadband infrastructure subsidies, the CPUC strives to get broadband deployed in unserved areas of the state. The EBS Tribal priority window the FCC adopted provides a unique opportunity to combine federal and state programs to expand Tribal broadband in ways not possible before. To that end, the CPUC would like to have as much time available as possible to consult with Tribes and assist, to the extent possible, in deploying wireless broadband.

Meaningful Tribal applications will likely require more than 10 hours. Tribes will need to engage with their Councils, identify lands, evaluate current licenses, consult with other eligible entities, evaluate a build-out plan and funding, and apply.

2) Tribes need time to plan networks that use spectrum in the 2.5 GHz Band

The FCC proposal to the OMB is inconsistent with the purpose and goals in the *Order*, including the adoption of a Tribal priority window and broad Tribal lands definition for purposes of eligibility, *if* Tribes do not have enough time to learn about and apply during the Tribal priority window.

The CPUC agrees that a "Tribal priority window for Tribal entities to obtain EBS licenses on Tribal lands that are located in rural areas is in the public interest."⁸ To obtain an EBS license, a Tribe must be aware of the opportunity and apply. To become aware of the opportunity and apply, Tribes need enough time to learn of the opportunity, gather data, inform their leadership, and decide to apply.

3) The critical need for EBS spectrum to provide Tribes an opportunity to subsidize their licensed fixed wireless deployments with California Advanced Services Fund

California Tribes have multiple non-governmental and public sources for technical support and funding to meet the deployment requirements in the *Order*.

The CPUC administers the California Advanced Services Fund (CASF), a grant program that covers up to 100% of one-time broadband infrastructure costs. Tribal applicants deploying EBS networks are generally CASF eligible, depending on if the area is unserved by other providers. Non-governmental entities, like the California non-profit MuralNet, can assist Tribes in these deployments and in obtaining CASF support, but obtaining an EBS license is essential to this process.

⁸ <https://www.fcc.gov/document/fcc-transforms-25-ghz-band-5g-services-0>, at paragraph 47

III. CONCLUSION

For the stated reasons, the CPUC urges the OMB to deny the FCC's request for emergency processing of the information collection requirement(s) contained in the *Order*. California fully supports the FCC's adoption of a Tribal priority window for Tribal entities to obtain Educational Broadband Service (EBS) licenses on Tribal lands and commends the FCC for recognizing the Tribal need for and interest in EBS licenses. However, we believe the shortened timeframe hampers both the CPUC's and the FCC's ability to meaningfully engage with Tribes, and it reduces the likelihood that eligible Tribes will be able to apply for and obtain EBS spectrum.

Respectfully submitted,

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