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**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
Upper C-Band (3.98 to 4.2 GHz)) GN Docket No. 25-59
To: The Commission)

**COMMENTS OF PUBLIC KNOWLEDGE, BENTON INSTITUTE FOR BROADBAND
& SOCIETY, CENTER FOR RURAL STRATEGIES, FIRST NATIONS
DEVELOPMENT INSTITUTE, INSTITUTE FOR LOCAL SELF-RELIANCE, OPEN
TECHNOLOGY INSTITUTE AT NEW AMERICA, SHOSHONE BANNOCK TRIBES,
TOHONO O’ODHAM UTILITY AUTHORITY, TRACE FIBER NETWORKS, TRIBAL
DIGITAL VILLAGE NETWORK, WASKAWIWIN, AND X-LAB**

Public Knowledge, Benton Institute For Broadband & Society, Center for Rural Strategies, First Nations Development Institute, Institute for Local Self-Reliance, Open Technology Institute at New America, Shoshone Bannock Tribes, Tohono O’odham Utility Authority, Trace Fiber Networks, Tribal Digital Village Network, Waskawiwin, and X-Lab submit these comments in support of a concurrent Tribal Licensing Window (TLW) as part of the Commission's reorganization and auction of the Upper C-Band. The Commission has both the statutory authority¹ and the practical means to implement such a window concurrently under the auction process mandated by the One Big Beautiful Bill Act (OBBBA,) Pub. L. No. 119-21, § 40002(b)(2).²

SUMMARY

The circumstances of the Upper C-Band proceeding make this a particularly valuable opportunity to administer a concurrent TLW. Unlike the AWS-3 auction, the proceeds of which were statutorily obligated towards programmatic objectives, the Upper C-Band auction can be designed free of such imperatives. Accordingly, even if the TLW were to affect auction revenue

¹ 47 U.S.C. § 309(j)

² *One Big Beautiful Bill Act*, Pub. L. No. 119-21, § 40002(b)(2), 139 Stat. 72 (2025.)

– which it will not – the Commission is prohibited from considering maximization of revenue in its overall public interest analysis.³ Moreover, the Upper C-Band is greenfield spectrum without the complex legacy issues that characterized the 2.5 GHz band, making a concurrent window substantially simpler to administer.⁴ For this reason, a properly structured concurrent TLW has the potential to benefit all federally-recognized Tribal governments.

The record demonstrates that Tribal spectrum windows deliver concrete and durable public-interest benefits – and the Upper C-Band is uniquely positioned to extend those benefits. The 2.5 GHz Tribal Priority Window enabled hundreds of Tribal governments and Tribal-controlled entities to obtain licensed spectrum and deploy broadband networks tailored to local needs.⁵ Tribes can and have used this spectrum to serve homes in areas neglected by commercial providers⁶, improve educational outcomes⁷, secure telehealth access⁸, and strengthen essential emergency services. These results underscore that meaningful access to licensed spectrum is critical for addressing persistent connectivity gaps on Tribal lands. Meanwhile, the Upper C-Band’s favorable propagation characteristics make it well suited for large, sparsely

³ See 47 U.S.C. §§ 309(j)(7)(A)-(B). It is important to note that a draft version of the spectrum portion of OBBBA contained a provision that would have expressly required the FCC to maximize auction revenue, but this provision was dropped before passage.

⁴ Upper C-Band (3.98–4.2 GHz) Notice of Proposed Rulemaking, GN Docket No. 25-59, FCC 25-78 (rel. Nov. 21, 2025).

⁵ Public Notice, “Wireless Telecommunications Bureau Waives 2.5 GHz Rural Tribal Window Specific Interim and Final Performance Deadlines,” DA 22-730 rel. July 8, 2022 (WTB).

⁶ *Indigenous Broadband Networks*, Community Networks, available at <https://communitynetworks.org/content/indigenous-broadband-networks>.

⁷ Letter of National Congress of the American Indians, et al., to Chairman Brendan Carr, Docket Nos. GN 22-59, WT Docket No. 25-70, 25-71, GN Docket No. 13-185. (filed Feb. 20, 2025).

⁸ *Internet Access Gaps Compound Health Disparities on Tribal Lands*, Annie Waldman & Paul Demko, KFF Health News (Mar. 19, 2024), available at <https://kffhealthnews.org/news/article/internet-broadband-digital-divide-tribal-health-disparities>.

populated, and topographically challenging Tribal areas, reducing deployment costs while supporting modern broadband applications.⁹

A concurrent TLW is also fully compatible with the Commission’s statutory auction obligations and operational timelines. The One Big Beautiful Bill Act requires the Commission to complete competitive bidding for at least 100 megahertz of Upper C-Band spectrum by July 4, 2027.¹⁰ The Commission can run a Tribal window in parallel with auction preparation by accepting Tribal applications alongside other short-form filings, reflecting qualifying applications in auction inventory disclosures, and resolving remaining processing through established post-auction licensing procedures as they did in the 2.5 GHz proceeding.¹¹ This approach allows competitive bidding to proceed on schedule while ensuring that Tribal priority operates before licenses are awarded.

Additionally, a TLW would not meaningfully affect auction inventory or bidder value. On a population basis, Tribal lands comprise only a small fraction of Partial Economic Areas, meaning that spectrum subject to Tribal licensing would represent a negligible subset of auctioned areas.¹² Any effect on auction revenue would therefore be, at most, marginal, while the benefits to Tribal connectivity, local capacity building, and equitable spectrum access would be substantial.

Finally, the absence of a Tribal Licensing Window in the Lower C-Band auction does not constitute a precedent for declining to adopt one here. The Commission did not consider or reject a TLW in that proceeding – the issue was simply not raised. The success of the 2.5 GHz Tribal

⁹ *Expanding Flexible Use in the 3.7-4.2 GHz Band*, 35 FCC Rcd 2343 at 5 (2020) (explaining the favorable characteristics of mid-band spectrum.)

¹⁰ *One Big Beautiful Bill Act*, Pub. L. No. 119-21, § 40002(b)(2), 139 Stat. 72 (2025.)

¹¹ *Auction of Flexible-Use Service Licenses in the 2.5 GHz Band for Next-Generation Wireless Services*, 86 Fed. Reg. 11969 (Mar. 2, 2021.)

¹² *Population Impact of Tribal Eligibility Definitions Across Partial Economic Areas*, Christine Parker, Institute for Local Self-Reliance (Jan. 2026) (attached as Appendix A).

Priority Window since that time has materially altered the policy landscape, providing the Commission with a demonstrated, administrable model for Tribal spectrum access. It is one thing to treat the Lower-C Band auction as a general blueprint for the Upper-C Block auction where doing so serves the purposes promoting broadband deployment and other public interest goals, but doing so for no reason – even where doing so undermines the public interest – elevates historical happenstance over informed decision-making.

For these reasons, we urge the Commission to establish a concurrent TLW in the Upper C-Band. It would advance the Commission’s obligations under Section 309(j) of the Communications Act, align with the federal trust relationship and Commission policy, and ensure that the Upper C-Band auction proceeds on schedule – all while delivering meaningful public-interest benefits for Tribal Nations.

I. ADOPTION OF A TLW ADVANCES THE GOALS OF SECTION 309(j).

The requirements for auction rules found in Section 309(j) strongly support adopting a TLW for the Upper C-Band Auction. As the Commission found in the 2.5 GHz Order, a TLW is fully compatible with its obligations under Section 309(j).¹³ Section 309(j) does not require the Commission to treat every potential license configuration as mutually exclusive and auctionable – to the contrary, Congress expressly preserved the Commission’s ability, and obligation, to use tools that avoid mutual exclusivity where doing so serves the public interest.¹⁴

Multiple provisions of the Communications Act support a TLW. Section 151 instructs the Commission to make communications services available “to all the people of the United States” with adequate facilities at reasonable charges, and to promote safety of life and property through

¹³ *In re Transforming the 2.5 GHz Band*, 34 FCC Rcd 5446 at 70 (2019) (“2.5 GHz Order”)

¹⁴ 47 U.S.C. § 309(j)(6)(E).

the use of wire and radio communications.¹⁵ A TLW directly advances those purposes by enabling Tribes to deploy wireless services that improve coverage, affordability, resilience, and emergency communications on Tribal lands.

Section 309(j) further supports the Commission’s authority and policy rationale. Congress directed that competitive bidding systems should serve statutory purposes and promote dissemination of licenses among a wide variety of applicants, including rural and minority-owned entities – categories that plainly encompass Native American and tribally-controlled entities.¹⁶ Section 309(j) also instructs the Commission to prescribe area designations and service rules that promote an equitable distribution of licenses and services among geographic areas and to ensure economic opportunity for qualifying groups – again including Native American communities and entities.¹⁷ The Commission has previously recognized, in contexts such as the Tribal Broadcast Window, that statutory language about equitable distribution across states and communities can and should be understood to include an obligation to ensure access for Native Americans to serve Tribal lands.¹⁸

Critically, Section 309(j)(6)(E) provides the precise mechanisms the Commission should use here: the section notes that nothing in Section 309(j) relieves the Commission of its obligation to use “engineering solutions, negotiation, threshold qualifications, service rules and other means in order to avoid mutual exclusivity.”¹⁹ A TLW is exactly such an approach. The Commission can use geographic licensing that covers Tribal lands, threshold eligibility

¹⁵ 47 U.S.C. § 151. Furthermore, Section 309(j)(3) expressly instructs the Commission to use auction design to “promote the purposes” of Section 151. Accordingly, advancing universal access through auctions is not a secondary consideration; it is a primary goal.

¹⁶ 47 U.S.C. § 309(j)(3)(B).

¹⁷ 47 U.S.C. § 309(j)(4).

¹⁸ 11 FCC Rcd 2343 (2020) (establishing and explaining Tribal Priority under Section 307(b)).

¹⁹ 47 U.S.C. § 309(j)(6)(E).

requirements (in limiting participation to the governments of federally-recognized Tribes or their designated representatives, as in the 2.5 GHz program), and tailored service rules to avoid mutual exclusivity.

Even if these statutory provisions were not sufficient on their own, the Commission has repeatedly emphasized its responsibility, as a federal agency subject to the federal trust relationship, to provide Tribes with access to spectrum for communications services generally – including in prior C-Band proceedings. For example, the Commission expressly noted its obligation to use spectrum auctions to encourage deployment of wireless services on Tribal lands.²⁰ And in 2022, the Commission further memorialized its obligation to provide Tribes greater access to spectrum on Tribal lands through a Memorandum of Understanding pledging to work jointly with the Department of the Interior and NTIA toward that goal.²¹ This policy trajectory reinforces that a TLW is not only permissible, but aligned with the Commission’s stated commitments and interagency coordination objectives.

Furthermore, a TLW is a recognition of the government-to-government relationship between the Commission and federally-recognized Tribes that is consistent with the federal trust relationship and the Commission’s own policies reflecting that relationship. As a federal agency, the FCC has repeatedly acknowledged that it must engage with Tribes in a manner that respects Tribal sovereignty and advances the ability of Tribal Nations to provide essential services to their communities.²²

Spectrum policy is one of the most direct ways the Commission can operationalize these

²⁰ 35 FCC Rcd 2343 at 20

²¹ *Memorandum of Understanding Regarding Electromagnetic Spectrum Access on Tribal Lands*, U.S. Department of the Interior, the Federal Communications Commission, and the National Telecommunications and Information Administration (Nov. 23, 2022).

²² *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, FCC 00-207, 16 FCC Rcd 4078 (2000).

commitments. Without meaningful access to spectrum, Tribes can be locked into dependency on outside providers who have historically not prioritized Tribal lands, or who may not deploy infrastructure at the level of quality or affordability these communities require.²³ A TLW is a targeted mechanism that helps ensure Tribes have a fair opportunity to secure the basic inputs needed to meet their needs and exercise self-determination in broadband deployment.

II. THE RECORD SUPPORTS A TRIBAL LICENSE WINDOW AND THE PUBLIC-INTEREST BENEFITS ARE SUBSTANTIAL

The 2.5 GHz window enabled Tribal governments and tribally controlled entities to move from being only nominally “covered” by licenses held by others to having the ability to plan, deploy, and operate networks that reflect their own community needs and priorities. A TLW in Upper C-Band would extend and multiply these benefits.

²³ *Tribal Spectrum and Broadband Access: Background and Considerations for Congress*, Congressional Research Service, pg. 1, (May 29, 2025) (describing persistent Tribal connectivity gaps and barriers to deployment). Available at: https://www.congress.gov/crs_external_products/IF/PDF/IF13014/IF13014.1.pdf

A. The 2.5 GHz TLW produced concrete educational, health, and connectivity benefits.

As many stakeholders have noted in prior comments, the 2.5 GHz window serves as a strong proof of concept for future windows. In the 2.5 GHz Tribal Priority Window, the Commission granted approximately 335 licenses to Tribal governments, Tribal consortia, and Tribal-controlled entities, representing more than 350 unique Tribes in 30 states.²⁴ The record shows that Tribes are using these licenses to deploy networks that can scale, improve reliability, and reach places commercial providers have long left unserved.²⁵

The Navajo Nation uses wireless networks to serve Tribal lands covering over 27,000 square miles, and the record indicates that since gaining access to 2.5 GHz spectrum, the Navajo Nation has exceeded its interim buildout obligation to serve 50% of the resident population and expects to meet the 80% final service requirement well before the final deadline.²⁶

In the Grand Canyon, the Havasupai Tribe has used 2.5 GHz spectrum access to connect teachers and Head Start students, illustrating how licensed spectrum can support educational services in extremely remote geographies.²⁷

And in remote Northern California, the Hoopa Valley Tribe is integrating its 2.5 GHz

²⁴ *In re WTB Waives 2.5 GHz Rural Tribal Window Specific Interim and Final Performance Deadlines*, 37 FCC Rcd 7829, 7830 (2022)

²⁵ *Tribal Spectrum and Broadband Access: Background and Considerations for Congress*, Congressional Research Service, (May 29, 2025.) (“Tribes plan to use or are using their 2.5 GHz spectrum to deploy networks and services, with some Tribes using federal funding from the Tribal Broadband Connectivity Program for this purpose.”)

²⁶ Comments of Navajo Nation Telecommunications Regulatory Commission, *Enhancing National Security Through Auction of AWS-3 Spectrum Licenses; Applying New Average Annual Gross Revenue Benchmarks for Small Business Bidding Credits; Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 17555-1780*

²⁷ Letter of National Congress of the American Indians, et al., to Chairman Brendan Carr, Docket Nos. GN 22-59, WT Docket No. 25-70, 25-71, GN Docket No. 13-185. (filed Feb. 20, 2025).

license to overcome difficult topological issues and provide connectivity in deeply remote parts of the reservation.²⁸

Tribes have made ample use of the 2.5 GHz window to solve the hard last-mile and middle-mile problems that other licensees have not solved, because those other licensees often do not build to, consult with, or prioritize Tribal communities.

As these deployment examples demonstrate, the benefits of the 2.5 GHz Tribal Priority Window extend beyond connectivity itself. Reliable broadband access on Tribal lands also has direct implications for public health, particularly in communities that face longstanding shortages of local health care providers and infrastructure.

Analysis from KFF Health News shows that gaps in high-speed internet connectivity compound health-care access challenges in Tribal “digital dead zones,” leaving residents with poorer health outcomes and limited access to telehealth services.²⁹ Federally recognized Tribal communities experience higher rates of chronic illness and significantly lower life expectancy than the national average, and broadband connectivity is a critical tool for expanding access to remote care, care coordination, and basic health services.³⁰

Meaningful access to licensed spectrum is a necessary component of that connectivity, because it enables Tribes to deploy and control networks capable of supporting consistent, high-quality broadband – including bandwidth-intensive telehealth applications – in areas where market-driven deployment has historically fallen short. As the experience of the 2.5 GHz

²⁸ *Indigenous Broadband Networks*, Community Networks, available at <https://communitynetworks.org/content/indigenous-broadband-networks>.

²⁹ *Internet Access Gaps Compound Health Disparities on Tribal Lands*, Annie Waldman & Paul Demko, KFF Health News (Mar. 19, 2024), available at <https://kffhealthnews.org/news/article/internet-broadband-digital-divide-tribal-health-disparities>.

³⁰ *Id.*

window demonstrates, providing Tribes with meaningful spectrum access has concrete, real-world consequences for health outcomes on Tribal lands.

B. The Upper C-Band is uniquely positioned to extend these benefits because it is a clean mid-band resource with nationwide reach.

The Upper C-Band offers a combination of coverage, capacity, and good propagation characteristics that the Commission itself has identified as making the broader 3.7-4.2 GHz range an ideal home for next-generation wireless services.³¹ That matters for Tribal connectivity specifically, because many Tribal lands face large service areas, difficult terrain, and sparse density where a spectrum resource with more favorable propagation can materially reduce the number of sites needed for meaningful service, while still supporting the capacity needed for modern broadband applications. The result is a band where Tribal licensees can plausibly use a mix of fixed wireless, carefully engineered backhaul, and localized mobile coverage to reach anchor institutions and homes that remain unserved or underserved.

Just as importantly, Upper C-Band is not an inventory auction constrained to a discrete set of leftover licenses like the current AWS-3 proceeding.³² In the Commission's Upper C-Band Notice of Proposed Rulemaking (NPRM), the FCC proposes to make as much as 180 MHz – and at least 100 MHz – of 3.98-4.2 GHz available for terrestrial wireless flexible use on a nation-wide basis.³³ This band-wide repurposing presents a rare opportunity for the Commission to adopt a scalable policy intervention to narrow the digital divide, like a TLW.

C. The public-interest benefits include durable economic and local workforce development.

³¹ 35 FCC Rcd 2343 at 5

³² *Auction of Advanced Wireless Services (AWS-3) Licenses; Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 113*, 90 Fed. Reg. 13117 (Mar. 11, 2025).

³³ *Upper C-band (3.98–4.2 GHz), Notice of Proposed Rulemaking*, GN Docket No. 25-59, FCC 25-78A1 (rel. Nov. 21, 2025).

Tribal access to licensed mid-band spectrum can generate public-interest benefits beyond connectivity by catalyzing the development of durable, local technical capacity on Tribal Lands. Following the 2.5 GHz Tribal Priority Window, Tribes and Tribal-serving providers have created hands-on training pathways specifically designed to help Tribal participants build, operate, and sustain broadband networks. For example, Tribal Broadband Bootcamps were organized in 2021 to help Tribal citizens – including citizens with minimal technical or telecommunications infrastructure backgrounds – develop practical skills for building and troubleshooting wireless networks, with early sessions training participants on deploying networks using their FCC 2.5 GHz spectrum access.³⁴ Substantial tribal spectrum access cultivates local labor networks of Indigenous technicians and practitioners who can support deployments across Tribal communities.

D. A limited existing equipment ecosystem is a reason for early Tribal access, not a reason to deny it.

The NPRM expresses concern that a lack of “a pre-existing and mature equipment ecosystem to facilitate Tribal licensee deployments and use of the spectrum in the near term” will hinder deployment (and, by implication, will leave spectrum fallow that winning licensees would serve.)³⁵ It is difficult to fathom what difficulty the NPRM anticipates here. After all, *every* licensee will face the same ecosystem of new standards and new devices. There seem to be two possibilities about which the Commission might be concerned. First, that the lack of experience with new equipment will somehow impede the ability of Tribes to deploy equipment

³⁴ *Tribal Broadband Bootcamp – Past Bootcamps*, Tribal Broadband Bootcamp (describing the Tribal Wireless Bootcamp held in July 2021 and subsequent Tribal Broadband Bootcamp events in 2022–2025,) available at <https://tribalbroadbandbootcamp.org/past-bootcamps/>.

³⁵ *Upper C-band (3.98–4.2 GHz)*, Notice of Proposed Rulemaking, GN Docket No. 25-59, FCC 25-78A1, 25 (rel. Nov. 21, 2025.)

successfully. This is, to be kind, silly. No one has ever suggested that rural providers generally require a “pre-existing and mature ecosystem” to understand how to add new equipment to existing networks. Alternatively, the Commission may be referring to the expense of acquiring new equipment. Commenters address each of these possible objections in turn.

As we have seen, first with unlicensed spectrum access, then with CBRS, and most recently with 2.5 GHz licenses, this concern inverts the proper sequence of development. Given access to spectrum, an ever increasing number of Tribes have seized the opportunity to deploy systems. Other Tribes have contracted with third parties for network deployment, because holding the license allows them to control local deployment priorities rather than need to persuade unwilling licensees to deploy on Tribal lands. Instead of delaying the introduction of Tribal spectrum opportunities until a corresponding telecommunications landscape materializes, the Commission should move to ensure early access so that an ecosystem can develop in a way that includes Tribal demand.

We see this natural progression as a consequence of the 2.5 GHz window. Tribal licensees are developing precisely the deployment ecosystem the Commission wishes to see. In many cases, it builds on the pre-existing Tribal deployments that relied on unlicensed spectrum. In addition to individual Tribes developing internal expertise, institutions such as Tribal Broadband Bootcamp and organizations that work with local governments such as the Institute for Local Self-Reliance are providing training and other forms of assistance to Tribes deploying their own wireless systems. As the Commission has seen, Tribes are certifying completion of their intermediate benchmarks.

Spectrum rights are a prerequisite to credible planning. Without a license, Tribes cannot make binding multi-year network plans, vendors cannot assess demand and develop tailored

offerings, and utilities, ISPs, and anchor institutions cannot coordinate infrastructure development. A window would serve as a market signal that there will be stable, creditworthy demand for equipment and deployment in Tribal communities.

To the extent the NPRM suggests that new equipment will initially be too expensive, this is highly unlikely. Unlike consumer electronics, carrier equipment is made in bulk from the beginning, in light of the massive deployments that large networks must make to upgrade seamlessly. Nor do carriers require new vendors for each new set of frequencies added to the network. Absent some dramatic change introduced by the Commission, Tribes should be able to use the same vendors they have used for carrier-grade unlicensed, carrier-grade CBRS, and 2.5 GHz. Indeed, CBRS similarly lacked a “pre-existing and mature ecosystem.” This has not stopped those Tribes interested in CBRS from acquiring equipment and deploying it.

III. A CONCURRENT TRIBAL LICENSE WINDOW IS EASILY ADMINISTRABLE AND CONSISTENT WITH THE JULY 4, 2027 DEADLINE

The OBBBA directs the Commission to complete a system of competitive bidding for at least 100 megahertz in the Upper C-band “not later than 2 years after the date of enactment.”³⁶ Because OBBBA became law on July 4, 2025, that statutory deadline falls on July 4, 2027. The Commission’s Upper C-band NPRM reflects this mandate and seeks comment on options for making at least 100 megahertz (and potentially up to 180 megahertz) of 3.98-4.2 GHz available for terrestrial flexible use through competitive bidding within this timeframe. A concurrent TLW is fully compatible with that schedule. The window can be structured as a parallel, front-end process that informs auction inventory before bidding begins — and like the 2.5 GHz window, it could reserve detailed processing and conflict resolution for after the auction.

³⁶ *One Big Beautiful Bill Act*, Pub. L. No. 119-21, 139 Stat. 72 (July 4, 2025) (requiring competitive bidding for not less than 100 megahertz between 3.98 and 4.2 GHz “not later than 2 years after the date of enactment”).

A. The Commission already has proven tools for Tribal-window licensing.

The success of the 2.5 GHz Tribal Priority Window demonstrated that the Bureau can operationalize, at national scale, a set of repeatable administrative tasks that are transferable to future auctions: verifying licensee eligibility, using standardized Tribal land geographies, processing applications, and managing window-specific public outreach.

The Bureau developed and published detailed filing guidance for applicants, including standardized exhibit requirements (around eligibility and “local presence”, for example) and attachment instructions in ULS.³⁷ These are the administrative muscles that a concurrent Upper C-band TLW would rely on. Unlike in spectrum auctions, where the Commission may have multiple new participants that require vetting even at the short-form stage, the number of federally recognized Tribes is fairly constant. Even if the Commission expands the eligible Tribes by eliminating the “rural” limitation, that work involves simply expanding existing eligible applicants rather than reinventing the vetting process or reexamining previous applicants.

Just as importantly for administrability, the Commission conducted the mapping and data work that tends to be most time-consuming at the start of any geographic eligibility program. In the 2.5 GHz window, the Commission created standardized shapefiles for each eligible Tribal land and incorporated them into the filing process, including clear procedures for Alaska-specific geographies. That experience substantially reduces the incremental effort required to stand up a TLW in Upper C-band, where the Commission can reuse the same basic approach: define eligible lands, standardize geographies, and create an application interface that allows Tribes to claim only what is eligible and requested. Again, to the extent expanding the number of eligible

³⁷ *Wireless Telecommunications Bureau Announces Procedures For 2.5 Ghz Rural Tribal Priority Window*, 35 FCC Rcd 308 (ULS filing instructions; exhibit/attachment requirements including eligibility and “local presence”). (2020)

Tribes or covered Tribal lands requires any changes, this is simply a modification of existing data rather than a return to square one.

B. The Upper C-band is particularly well suited to a concurrent TLW because it is greenfield spectrum.

The Commission’s 2.5 GHz Tribal window operated in a legacy terrestrial band with decades of Educational Broadband Service licensing history.³⁸ The Upper C-band, by contrast, is greenfield spectrum being reconfigured specifically to introduce new terrestrial flexible-use rights through a Commission-designed licensing framework and an auction.³⁹ Rather than having to sift through a pre-existing patchwork of incumbents to determine what is available where, the Commission is designing this licensing regime from the bottom up and can incorporate a TLW as part of that design.

C. The 2.5 GHz Tribal Priority Window provides a direct blueprint for integrating a Tribal window into the auction timeline and bidder notice process.

In the 2.5 GHz context, the Commission emphasized opening the Tribal Priority Window before making unassigned spectrum generally available via competitive bidding in order to ensure that Tribal entities “had access to the maximum amount of unassigned EBS spectrum available on rural Tribal lands.”⁴⁰ At the same time, although the 2.5 GHz Tribal Priority Window preceded the short-form auction filings, the auction preparation and licensing proceeded *in parallel* with unresolved Tribal applications, with overlay licenses granted subject to Tribal window rights.⁴¹ That sequencing is instructive here: a concurrent TLW can ensure that Tribal

³⁸ *Transforming the 2.5 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 18-120, FCC 19-62, 34 FCC Rcd 5446 (on updating the EBS/legacy 2.5 GHz framework).

³⁹ Upper C-Band (3.98–4.2 GHz) Notice of Proposed Rulemaking, GN Docket No. 25-59, FCC 25-78 (rel. Nov. 21, 2025).

⁴⁰ *Transforming the 2.5 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 18-120, FCC 19-62, 34 FCC Rcd 5446.

⁴¹ *Id.*

priority operates before bidding in the sense that matters most – *before licenses are awarded* – without requiring the Commission to complete every aspect of substantive application processing before the auction proceeds. The Commission has already shown, in the 2.5 GHz context, that it can advance auction preparations while Tribal Priority Window applications remain under review.

In the Auction 108 (2.5 GHz) Federal Register notice, the Commission explained that it would release a public notice announcing the final auction inventory in advance of the short-form deadline so that potential auction applicants could make informed decisions “in light of information as to existing incumbents and potential Tribal licensees.”⁴² Critically, the Commission also acknowledged the practical reality that not all Tribal applications would necessarily be fully resolved at that stage: staff “aim[ed]” to process all pending Tribal Priority Window applications before announcing the final inventory, but recognized that “there may be Tribal applications that remain pending at the time the auction inventory is announced.”⁴³ To support bidder diligence given that uncertainty, the Commission also created bidder resources such as mapping tools to identify existing licenses and Tribal Priority Window applications.⁴⁴

The Bureau reinforced this framework in later 2.5 GHz auction public notices. It expressly reminded interested parties that pending Tribal Priority Window applications could affect the final licenses available for bidding and clarified the legal relationship between Tribal window rights and auctioned overlay rights: licenses granted through Tribal Priority Window applications “will have incumbent status vis-à-vis licenses awarded in Auction 108,” such that a

⁴² *Auction of Flexible-Use Service Licenses in the 2.5 GHz Band for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auction 108*, 86 FR 12146, 12159 at 3.

⁴³ *Id.*

⁴⁴ *Id.* (bidder resources including mapping tools).

winning bidder “will not be allowed to operate within the license area of a successful [Tribal window] applicant, even if that [Tribal window] application remains pending at the time of issuance of the overlay license.”⁴⁵

D. A concurrent window can be structured to minimize staff burden by aligning with the auction’s short-form/long-form sequencing.

A concurrent TLW can leverage the Commission’s two-stage auction framework – short-form and long-form applications – by limiting pre-auction review to threshold, procedural intake steps and deferring more comprehensive processing until after bidding.

Specifically, the Commission could:

- (1) open the TLW filing window on a schedule alongside the auction’s short-form window;
- (2) require TLW applications to be filed by a defined cutoff tied to auction milestones; and
- (3) reflect qualifying TLW applications in the auction inventory disclosures as areas subject to potential Tribal authorizations – *as the Commission did in the 2.5 GHz auction*.

This approach is consistent with the way the Commission treated pending Tribal applications during the 2.5 GHz auction – as disclosed potential encumbrances that bidders must factor into their bids, while allowing the auction to proceed on schedule.⁴⁶ Furthermore, this process demonstrates that the Commission can design a TLW that manages any residual conflicts through established licensing and post-auction processes, without conditioning competitive bidding on complete ex ante resolution of all Tribal applications.

E. Tribal Lands represent a small share of the available license areas.

⁴⁵ *Id.* (“licenses granted through Rural Tribal Priority Window have incumbent status vis-à-vis Auction 108 overlay licenses.”)

⁴⁶ *Auction Of Flexible-Use Service Licenses In The 2.5 Ghz Band For Next-Generation Wireless Services; Comment Sought On Competitive Bidding Procedures For Auction 108*, 36 FCC Rcd 645 at 6.

Finally – on a population basis, Tribal lands comprise a small fraction of most license areas. Therefore, spectrum subject to TLW applications would likely affect only a limited subset of the auction inventory. Christine Parker of the Institute for Local Self-Reliance (ILSR) conducted population-based research examining how a TLW would intersect with Partial Economic Areas (PEAs), and the results show that the auction impact would be marginal.⁴⁷ Using census-block data overlaid on PEAs that overlap with Tribal lands, the analysis finds that under a restrictive eligibility definition, *only about 1.81%* of the population within affected PEAs falls within eligible Tribal areas, and under a broader proposed definition, that share rises modestly to approximately 2.35%. The incremental difference between the two definitions – about 901,642 people nationwide – represents a small fraction of the population in PEAs that intersect Tribal lands. Taken together, these results demonstrate that, on a population basis, TLW-eligible areas constitute a very small portion of license areas, reinforcing the conclusion that inclusion of a TLW would affect only a limited subset of auction inventory. The inclusion of a TLW is therefore unlikely to materially reduce the value of licenses offered through competitive bidding.

IV. DESIGN CHOICES TO ENSURE STRONG TRIBAL PARTICIPATION AND WINDOW EFFICACY

The Commission has an opportunity to apply lessons learned from the 2.5 GHz Tribal Priority Window and design the Upper C-band window to reach all Tribal communities that need spectrum access. In expanding the scope of eligible Tribes *and* the geographic boundaries of Tribal lands, the Commission can deliver on the full promise a TLW stands to offer. As noted in Section III.A, expanding the eligibility to all federally recognized Tribes, and expanding the

⁴⁷ *Population Impact of Tribal Eligibility Definitions Across Partial Economic Areas*, Christine Parker, Institute for Local Self-Reliance (Jan. 2026) (attached as Appendix A).

definition to Tribal trust lands, will not impact the ability to hold the TLW concurrently with the auction. These changes build on the mechanisms the Commission staff developed as part of the 2.5 GHz TLW.

A. All federally recognized Tribes should be eligible for the window — not just rural Tribes.

In designing an Upper C-Band TLW, the Commission should eliminate any rural population threshold and extend eligibility to all federally recognized Tribes. When the Commission expanded the Enhanced Competition Incentive Program to all federally recognized Tribes in 2024, it explicitly recognized "the acute connectivity challenges that Tribal Nations face" and the need for spectrum access "in both rural and *nonrural* areas to help meet their communications needs."⁴⁸ That same logic applies here.

Urban and suburban growth has expanded into areas adjacent to Tribal lands without producing corresponding network investments in those Tribal communities.⁴⁹ In effect, this means Tribal providers serving so-called "urban" Tribal lands must cobble together networks using only CBRS and unlicensed spectrum, while the same provider can access more robust licensed spectrum for other portions of the same community. The result is a two-tiered service model within individual Tribal nations, where some members receive connectivity comparable to surrounding areas while others remain underserved despite living in nominally "urban" census tracts. Additional licensed spectrum would remedy this disparity and allow Tribes to serve members of their community with equally powerful networks.

⁴⁸ *In re FCC Establishes Enhanced Competition Incentive Program*, 37 FCC Rcd 8825 at 28. ("We recognize the acute connectivity challenges that Tribal Nations face and believe that inclusion in the ECIP program will facilitate spectrum access by Tribal Nations in *both* rural and nonrural areas to help meet their communications needs.") (emphasis added)

⁴⁹ See Daniel Mejia, "American Indians and Alaska Natives In Tribal Areas Have Among the Lowest Rates of High Speed Internet Access," United States Census Bureau (June 18, 2024). Available at: <https://www.census.gov/library/stories/2024/06/broadband-access-tribal-areas.html>.

B. The definition of Tribal Lands should include all trust lands.

The Commission should adopt the broader definition of Tribal lands contained in 47 C.F.R. § 73.7000, which includes reservations, trust lands, and Native Hawaiian Homelands.⁵⁰ In the 2.5 GHz proceeding, numerous Tribal commenters and the National Congress of American Indians urged adoption of this definition precisely because it captures trust lands that fall outside the Universal Service definition in Part 54.⁵¹ The Commission acknowledged that its chosen Part 54 definition would exclude off-reservation trust lands but attempted to address this through a "Part 54 Plus" approach referencing the off-reservation designation process in 47 C.F.R. § 54.412.

That remedy proved illusory. By limiting the off-reservation allowance to Tribes that had already obtained such designations by the July 2019 adoption date of the 2.5 GHz Order, the Commission created a cutoff that made the corrective mechanism functionally unavailable to many Tribes.⁵² Tribal communities on excluded trust lands lost access to spectrum licenses and the network deployment opportunities they enabled. The Upper C-band proceeding offers a chance to correct this error from the outset rather than perpetuating it.

C. The Commission should adopt fair buildout obligations that do not unduly burden Tribal licensees.

Additionally, the Commission should ensure that Tribal licensees are not subject to more stringent buildout requirements than other licensees in the Upper C-band. Experience from the 2.5 GHz proceeding demonstrates the problems that arise when Tribal spectrum access comes

⁵⁰ 47 C.F.R. § 73.7000 (definition including reservations, trust lands, and Native Hawaiian Homelands).

⁵¹ *Transforming the 2.5 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 5446 at 49 (discussing commenters proposing broadcast-style Tribal definitions and the Commission's Part 54 approach.)

⁵² *Petition for Reconsideration*, National Congress of American Indians, WT Docket No. 18-120 (filed Nov. 25, 2019), available at <https://www.fcc.gov/ecfs/document/1125753726939/1>

with compressed timelines that do not account for the unique deployment challenges facing Tribal communities.⁵³

In the 2.5 GHz Rural Tribal Priority Window, the Commission initially adopted a buildout timeline that required Tribal licensees to "demonstrate compliance with interim build-out levels after two years, and final build-out levels after five years."⁵⁴ This timeline was significantly shorter than the standard performance requirements applicable to other 2.5 GHz licensees, who had four years for interim buildout and eight years for final buildout. The Commission subsequently recognized this disparity was inappropriate and revised the Tribal buildout requirements to match the timelines for non-Tribal licensees.⁵⁵

This course correction reflected a reality that should inform future auctions such as the Upper C-Band – Tribal communities face distinct infrastructure and deployment challenges. Among those are limited existing telecommunications infrastructure, complex topographies, distance from equipment vendors and contractors, and difficulties in accessing labor and capital. Imposing tighter buildout deadlines on Tribal licensees creates a structural disadvantage that undermines the purpose of Tribal spectrum opportunities. At a minimum, Tribal licensees should have buildout timelines no shorter than those applicable to other licensees in the same spectrum band. The Commission should apply this principle from the outset in the Upper C-band, rather than requiring a subsequent correction as occurred in 2.5 GHz.

⁵³ 37 FCC Rcd 7829

⁵⁴ 47 C.F.R. § 27.14(u)(4) (Tribal Window interim/final performance rule as adopted.)

⁵⁵ *Wireless Telecommunications Bureau Waives 2.5 GHz Rural Tribal Window Specific Interim and Final Performance Deadlines*, Wireless Telecommunications Bureau, DA 22-730 (rel. July 8, 2022) (rationale for altering Tribal-specific performance deadlines.)

V. THE COMMISSION’S PROPOSED “BASELINE” TO USE THE SAME RULES AS THE LOWER C-BAND AUCTION DOESN’T MAKE SENSE.

In ¶ 25, the Commission refers back to ¶ 19 which stated a preference to “closely align the allocations across C-Band for the reasons similar to those that prompted the Commission’s 2020 reallocation.” To wit, the vital importance of adequate mid-band spectrum for next generation wireless broadband service is “due to its favorable propagation characteristics.” This is, of course, a strong reason *for* a TLW. As discussed at length above, allocating these “crucial” licenses will help close the Tribal digital divide, whereas denying Tribes these “crucial” licenses will leave them falling further behind. Additionally, as explained above, the addition of a TLW will have no impact on the auction overall.

As the NPRM notes, the Commission did not include a TLW in the Lower C-Band Auction. NPRM ¶ 25 n.69. This was simply because no one even suggested it. The idea was proposed as part of the 2.5 GHz transformation and auction. The idea was sufficiently novel, and its success still sufficiently undemonstrated (especially in light of COVID-imposed delays), that the idea of including a TLW did not occur to anyone. The Commission’s failure to include a TLW in the Lower C-Band Auction was therefore not a result of conscious and well-reasoned decisionmaking. It was an oversight that should not be repeated.

Therefore, while certainly true that the Commission did not conduct a TLW as part of the 2020 auction, the Commission should not repeat this error based on a mechanical rule of its own invention a mere 6 paragraphs prior. This is especially true where the reason given for this rule – promoting deployment of next-generation wireless broadband – runs counter to purpose (and result) of a Tribal Licensing Window; *i.e.* promoting deployment of next generation wireless to Tribal lands in accordance with the Commission’s federal trust responsibilities and the mandate of Section 1 of the Communications Act. To refuse to hold a TLW, despite every reason to the

contrary, solely because the Commission neglected to do so last time when no one even suggested conducting one, would be the height of arbitrary decisionmaking.

CONCLUSION

Establishing a concurrent TLW in the Upper C-band is a practical, lawful, and high-impact policy choice. As discussed above, the Commission has strong statutory authority to adopt a TLW consistent with Section 309(j), including Congress's express directive that the Commission use service rules and other mechanisms to avoid mutual exclusivity where doing so serves the public interest. The Commission has also repeatedly recognized its responsibility, rooted in the federal trust relationship and longstanding Commission policy, to improve Tribal access to spectrum as a foundation for communications services and broadband deployment.

The record demonstrates that Tribal spectrum access mechanisms deliver tangible results. The 2.5 GHz Tribal Priority Window allowed hundreds of Tribal licensees to obtain spectrum over Tribal lands and to pursue broadband deployments tailored to community needs, including educational connectivity and other essential services. Since the Upper C-Band is a greenfield, mid-band resource being repurposed under a statutory auction mandate, the Commission can incorporate Tribal access *at the moment the licensing regime is being established*, allowing the Commission to address predictable inequities in spectrum access at the licensing stage rather than attempting to remedy them after rights have already been allocated.

A concurrent TLW is administrable and well within the Commission's operational experience, given its prior implementation of Tribal-focused application processes. The Commission can *further* ensure administrability and effectiveness through straightforward design choices, including running the TLW on a parallel schedule and integrating it into the auction process by allowing Tribal applications to be processed during the short and long-form

application window. Applications accepted for filing by the close of that window can be reflected in auction inventory disclosures as areas subject to TLW applications, preserving auction timelines while providing bidders with adequate notice.

For these reasons, the Commission should include a parallel TLW as part of its Upper C-band licensing framework and auction; ensuring that Tribal Nations have a meaningful opportunity to spectrum access and fulfilling Congress's directive on schedule.

Respectfully submitted,

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Tohono O'odham Utility Authority
Trace Fiber Networks
Tribal Digital Village Network
Waskawiwin
X-Lab

January 20, 2026

Tribal Priority Window

Christine Parker

What is the total population across all PEAs that overlap a Tribal area (restrictive or proposed definition)?

```
format(pea_tribal_pop, big.mark = ",", scientific = FALSE)
```

```
[1] "168,714,002"
```

What is the total population in census blocks within PEAs that are located in a Tribal area eligible under the restrictive definition?

```
format(pea_restr_tribal, big.mark = ",", scientific = FALSE)
```

```
[1] "3,059,183"
```

What is the total population in census blocks within PEAs that are located in a Tribal area eligible under the proposed definition?

```
format(pea_prop_tribal, big.mark = ",", scientific = FALSE)
```

```
[1] "3,960,825"
```

What is the difference in population between Tribal areas located in the proposed definition vs. restrictive definition?

```
format(pea_prop_tribal - pea_restr_tribal, big.mark = ",", scientific = FALSE)
```

```
[1] "901,642"
```

What is the percentage of population in PEAs (that overlap Tribal areas) that are located within:

Restrictive definition of eligibility

```
sprintf("%.2f%%", pea_restr_tribal/pea_tribal_pop * 100)
```

```
[1] "1.81%"
```

Proposed definition of eligibility

```
sprintf("%.2f%%", pea_prop_tribal/pea_tribal_pop*100)
```

```
[1] "2.35%"
```