

**STATEMENT OF
COMMISSIONER ANNA M. GOMEZ**

Re: *Enhancing National Security Through the Auction of AWS-3 Spectrum Licenses; et. al*, Report and Order and Second Report and Order, GN Docket Nos. 25-70, 25-71, 13-185 (July 24, 2025)

With today's Order, we implement a congressional directive on the AWS-3 spectrum licenses remaining in inventory. Preparing for this auction allowed us to continue to exercise our auction muscles while we waited for our auction authority to be reinstated. While I believe the Federal Communications Commission (FCC, Commission) could have conducted both a Tribal Licensing Window and an AWS-3 auction within the timeframe Congress indicated, I understand that the Commission's interpretation of Congress's directive in this Act was to move to auction expeditiously. For these reasons I approve in part and concur in part.

Notwithstanding my partial concurrence, I would like to thank the Chairman and his staff for working with me on edits to this Order that affirm our Trust Responsibility to Tribal Nations.

The United States Trust Responsibility to Tribes is a legal obligation established by the Constitution, Tribal Treaties, and more than a hundred years of Supreme Court precedent.¹ As part of the federal government, the FCC has this responsibility. Under this principle, we engage with Tribal Nations on a government-to-government basis, a practice known as the Trust Relationship, and are charged with carrying out the law in a manner that supports Tribal sovereignty. With regard to spectrum policy, the unique legal framework and relationship between the federal government and Tribes requires us to ensure that Tribes have a fair and meaningful opportunity to secure spectrum rights essential to their economic development, public safety, and cultural preservation.

In the record for the auction of AWS-3 licenses, at least twelve stakeholders across various comments agreed with this approach and supported a Tribal Licensing Window.² The Navajo Nation, the Shoshone-Bannock Tribes, a Tribal regulatory entity, a national organization representing hundreds of Tribal Governments, an intertribal organization representing more than 50 Tribes with large reservations, a Tribal wireless broadband provider, a non-profit that trains Tribes to build and operate Internet networks, and numerous public interest groups asked us to hold a Tribal Licensing Window.³ Holding a Tribal Licensing Window is consistent with and acknowledges our Trust Responsibility. While we will not hold a window in this auction, I am grateful to Chairman Carr for agreeing to seek comment about Tribal Licensing Windows in future auction proceedings. I look forward to future auctions now that our auction authority is restored.

¹ See U.S. Const. art. I, § 8, cl. 3; *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1831); *Seminole Nation v. United States*, 316 U.S. 286, 296-97 (1942); see generally Cohen's Handbook of Federal Indian Law §5.04(3) (Nell Jessup Newton ed., 2012).

² National Congress of American Indians, et al., (NCAI) Comments; Navajo Nation Telecommunications Regulatory Commission (NNTRC) Comments; Shoshone-Bannock Tribes (SBT) Comments; Coalition of Large Tribes (COLT) Comments; Letter From Dr. Buu Nygren, President, The Navajo Nation, to Brendan Carr, Chairman, FCC GN Docket Nos. 25-70, 25-71, 13-185, at 2 (Feb. 20, 2025); Letter from Nat Purser, Government Affairs Policy Advocate, Public Knowledge, et al. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (July 11, 2025) (PK Letter); Letter from Michael Calabrese, Director, Wireless Future Open Technology Institute at New America and Harold Feld, Senior Vice President, Public Knowledge, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (Apr. 21, 2025); Letter from the United Church of Christ Media Justice Ministry, et al. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 25-70, 25-71, 13-185 (Apr. 28, 2025) (UCC Letter).

³ See NNTRC Comments; Shoshone-Bannock Tribes Comments at 1; NCAI Comments; UCC Letter; COLT Comments; and PK Letter.

The record for Auction 113 also highlighted an ongoing problem that impedes connectivity on Tribal lands: there are cases in which auction winners acquire licenses that include Tribal lands but fail to build out on those lands.⁴ Here, again, I am glad that in this item we are committing to finding ways to address the connectivity challenges that Tribal Nations face. I hope this commitment includes looking into complaints about unused spectrum, as overseeing the efficient use of spectrum is of paramount importance to our Agency.

To carriers, I want to remind you of the importance of serving all areas, including Tribal lands, and not letting spectrum sit unused. To Tribal Nations facing this issue, I want you to know that we take these complaints seriously. Cognizant of our Trust Responsibility, we will monitor the situation, and I commit to support seeking comment in future auctions on whether to adopt rules implementing forced partitions, “use or share,” and “use or lose” conditions on licenses over Tribal lands where carriers fail to build out using spectrum acquired at auction.

Thank you.

⁴ NNTRC Comments at 11.