

**SEPARATE STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Notice of Proposed Rulemaking*

I am pleased to join in approving this item, which initiates our first triennial review of the Commission's policies on unbundled network elements (UNEs). In this proceeding, we will revisit the circumstances under which incumbent local exchange carriers must make parts of their networks available to requesting carriers.

This proceeding goes hand-in-hand with our inquiries on national performance measures in terms of promoting facilities-based competition. *See* Separate Statement of Commissioner Kevin J. Martin, *Performance Measurements and Standards for Unbundled Network Elements And Interconnection*, Notice of Proposed Rulemaking, FCC 01-331, 2001 WL 1461061 (rel. Nov. 19, 2001). As I have stated, the promotion of facilities-based competition should be a fundamental priority of this Commission. The goal of the Telecommunications Act of 1996 was to establish an environment that promotes meaningful competition and allows for deregulation. To get to true deregulation, we need facilities-based competition. Without such competition, we will always need a regulatory body to set wholesale and retail prices.

This proceeding presents an important opportunity for the Commission to consider carefully how our rules affect facilities deployment. In particular, we inquire how the necessary and impair standard, which is used to determine what elements must be unbundled, should apply to elements that are readily available and to new facilities and infrastructure being built by the ILECs. Any changes we make to our rules – if, indeed, any are necessary – should ensure there are adequate incentives for both ILECs and CLECs to invest in new equipment.

At the same time, I reiterate my commitment to making sure that CLECs are able to obtain, in a reasonable and timely manner, those facilities of the ILECs that are truly essential. No one expects CLECs to build entire networks from scratch overnight. Enabling CLECs to gain meaningful access to essential facilities controlled by ILECs thus remains crucial to promoting facilities-based competition. Accordingly, I view our inquiries on establishing national performance measures for UNEs and special access as equally important to the proceeding we initiate today. In all of these proceedings, I look forward to furthering our goal of making meaningful facilities-based competition a reality.