

SEPARATE STATEMENT OF COMMISSIONER KATHLEEN Q. ABERNATHY

Re: Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, WT Docket No. 02-08, Report and Order (adopted May 16, 2002).

Today's Order is a substantial and important step forward in providing additional spectrum for some essential wireless services that often receive less attention than the traditional CMRS industry. As we develop new and innovative spectrum management policies, we must remember that one size does not fit all. In fact, it is imperative that we adopt a diverse and flexible spectrum management approach that allows a wide variety of services to survive, thrive and serve the American people.

The Commission today does just that. We license some bands site-by-site, others nationwide, and still others in 52 areas. The Commission licensed paired bands and unpaired as well. Some licenses are 5 MHz, others only 2 MHz. The agency also designed some bands to provide additional spectrum resources for private land mobile radio services. These service rules are significant because many of these licensees have unique safety and reliability needs that cannot be met by traditional commercial services. Similarly we chose to auction two five MHz bands as unpaired spectrum blocks to allow new technologies that do not use paired spectrum to enter the marketplace. These various approaches enable a wide variety of licensees to provide spectrum-based services.

As we work to facilitate a more effective secondary market, our initial allocations matter more than they should from a policy perspective. For today, we must adopt policies that reflect the way things are. Thus today, we will need to consider all shapes and sizes of spectrum allocations and service rules to serve the public interest.

I also want to emphasize the importance of the more-detailed-than-usual interference protections advanced by the parties and adopted today in the 1427-1432 MHz band. As I said when we issued the Notice of Proposed Rulemaking in this docket, "[t]he medical and utility telemetry communities privately crafted a solution that advances each of their interests – a job often better done by the parties than by government. There is no question that mutual resolution of their private interests greatly assists the Commission in assessing the broader public interest." The record in this docket did not produce a single party that opposed the interference limits jointly advanced by the medical and utility telemetry communities. While I generally support flexibility in allocations and service rules, I cannot support flexibility in the face of the identified public interest harms associated with that approach for these bands. Wireless Medical Telemetry Service devices are used in hospitals, clinics, nursing homes, and other health care facilities to transmit waveform and other physiological data from patient measurement devices (that are worn or carried by the patient or transported along with the patient) to patient monitoring, data distribution and data storage systems. One of the main purposes of patient monitoring is the early detection of life-threatening developments so that appropriate and timely intervention can be rendered. Based on the supportive record, safety-of-life considerations and the lack of any countervailing commercial interest, I believe the detailed rules we adopt today to protect medical telemetry from harmful interference advances the public interest.

Finally I am pleased that the Commission has committed to issuing an NOI by year's end to examine the availability of wireless services in rural America. The decision-making process would greatly benefit from additional data regarding the spectrum being used, the services being provided, and the needs in these areas. In turn, the Commission has an obligation to ensure that our regulatory tools are effective in facilitating the efficient use of spectrum in rural regions. Thus, secondary markets, partitioning and disaggregation, auction service areas, bidding credits, and our other policies should be closely reviewed to ensure their efficacy for non-urban settings. This is particularly important because wireless is poised to provide significant competition in rural areas where multiple facilities-based providers have not developed as rapidly in some more densely populated areas. I look forward to this proceeding and gathering a record that will improve our rural spectrum policy process.