

SEPARATE STATEMENT OF COMMISSIONER KATHLEEN Q. ABERNATHY

Re: Service Rules for Use of the 71-76 GHz, 81-86 GHz and 92-95 GHz Bands, Notice of Proposed Rulemaking (adopted June 13, 2002).

As technology advances and the pressure to “find” more spectrum increases, commercial and government research efforts increasingly focus on spectrum in upper bands. There was certainly a time when commercial RF interests looked askance at spectrum at 40 GHz, let alone the 70, 80, and 90 GHz bands we examine today. Innovation, technological change, and increasing encumbrances in the lower bands have driven the regulatory process to open these new bands to commercial operations. Over the past few months I have spoken often about the challenges presented by new technologies and the increasingly encumbered FCC-administered spectrum space, today’s decision is the positive outgrowth of the spectrum draught in the lower bands.

As currently conceived the 70, 80 and 90 GHz bands will use “pencil beams” of radio energy to transmit data relatively short distances between fixed sites. In many cases there could be thousands of these “hops” in a relatively small geographic area – but because of the narrow beam it is believed multiple systems can co-exist without interference. This deployment model is unlike anything we have ever seen and may require new thinking on the appropriate licensing approach.

As I have stated before, spectrum management in our age requires that we consider the full panoply of tools that Congress gave us for spectrum distribution: licensed and unlicensed, site-by-site and geographic, large and small service areas, paired and unpaired. Here I strongly believe that this new technology requires a cautious approach to the licensing question. That is, I am not prepared to tentatively conclude that an auction or even licensing is required. I am pleased that the item reflects this approach and I look forward to a full record on this issue with the type of creative thinking that new technologies may require to succeed.

Commercial operations also must share these new bands with federal government spectrum users. However, we have an obligation to ensure that our new licensees are not ultimately surprised to learn that the nature of the federal government uses in a band preclude commercial development. I understand that some of this information regarding government systems is classified, but we must find a way to protect national security while also developing the commercial spectrum resource. I look forward to working with my colleagues at NTIA to ensure the greatest transparency possible in this and other bands.

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Thanks to Loea Communications Corporation – the party that petitioned for the rulemaking we begin today, the other innovators in the bands, and the hard work of OET and the WTB, with today’s Notice we begin to open a new spectrum frontier for the American people.