

Separate Statement of Commissioner Kathleen Q. Abernathy

Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-XX; Part 1 of the Commission's Rules – Further Competitive Bidding Procedures, WT Docket No. 03-XX; Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and the Instructional Television Fixed Service Amendment of Parts 21 and 74 to Engage in Fixed Two-Way Transmissions, MM Docket No. 97-127; Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico, WT Docket No. 02-68, Notice of Proposed Rulemaking and Memorandum Opinion and Order

This NPRM recognizes that many MMDS and ITFS licensees currently provide very valuable services to the public. For example, many schools rely on ITFS-based services in order to complete their missions to provide educational services to their communities through distance-based learning.

It also appears, however, that these services have not yet reached their full potential and some of the spectrum remains underutilized. Many licensees have repeatedly told us of the many regulatory hurdles they face when attempting to deploy the new, innovative services demanded by the market. Today's NPRM is a step-forward to resolving many of these issues by seeking ways to promote greater flexibility for licensees. I don't know if this spectrum is best used to offer a third broadband pipe to the home, a mobile solution, a broadcast alternative or some other market-driven product, but I am willing to ask the question.

Underutilized and unused spectrum has little value. I believe that the public interest is best served by creating regulatory policies that foster effective investment and stimulate the delivery of service to the public. Today's NPRM is a substantial move toward achieving that goal by gathering a record on which the Commission can craft an appropriate band plan and service rules to ensure that the spectrum available for use by the MMDS/ITFS community can be used as efficiently and effectively as possible by licensees.

Moreover, I continue to support the contributions of the ITFS licensees and the important role these licensees play in furthering educational opportunities for all of us. Today's NPRM does not inhibit the ability of ITFS incumbents to offer their services as long as they wish. It simply provides a forum for looking at ways to improve the flexibility afforded to all users of the MMDS/ITFS spectrum. I believe that affording flexibility to license holders is imperative if we are to achieve the goal of efficient and effective use of the radiocommunications spectrum resource.

I recognize, however, that certain ITFS and MMDS licensees did not obtain their authorizations at auction and depending on the outcome of this proceeding they may

obtain an increased value through secondary markets. Accordingly, I believe as we review the record in this proceeding, we must carefully weigh the public interest benefits of the auction proposal in comparison to having spectrum underutilized.

Finally, I would like to add my thanks to the Coalition – the group that submitted the initial plan that formed the basis of the NPRM, the other innovators in the band, and the hard work of the Wireless Telecommunications Bureau in moving forward with this proposal.