

**SEPARATE STATEMENT
OF CHAIRMAN MICHAEL K. POWELL**

Re: Review of the Commission Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Services by Incumbent Local Exchange Carriers (WC Docket No. 03-173(Adopted September 10, 2003))

Seven years is a long time in the telecommunications industry. At the time the Commission initially adopted its pricing rules in 1996, it promised to review them after states had implemented the first round of pricing decisions. I am pleased that today – seven years after the first pricing rules were adopted – the Commission has moved to keep the promise we made in 1996. Today’s Notice represents the first-ever comprehensive and directed approach to reviewing our TELRIC pricing methodology.

Now that competition has taken root in many areas of the country, we initiate this proceeding to consider whether our pricing rules are working as intended, in particular, whether it is conducive to facilities investment. The stakes are high: without the correct pricing signals in the market, our rules can thwart a central purpose of the Act, the development of facilities-based competition.

The hypothetical nature of the TELRIC inquiry has been difficult for states to implement and has resulted in a lack of consistency that disadvantages incumbents and competitors alike. It is my hope that at the end of this proceeding the market will benefit from a methodology that is less theoretically freewheeling. The tentative conclusion stated in the item supports this policy direction. While I have heard some concern surrounding the tentative conclusion, our commitment to retaining a forward-looking approach is unwavering – what we are debating is the extent to which realistic assumptions about the incumbent’s network should be included in our pricing rules. I believe that an approach grounded in the real-world attributes of the incumbent’s network would address claims that our TELRIC rules currently distort a competitor’s decision whether to invest in new facilities or to lease an incumbent’s existing facilities.

I look forward to reviewing the submissions in the proceeding and working with state regulators to capture the experience they have gained implementing our pricing methodology. Finally, I appreciate the support of my colleagues in initiating a fair and balanced review of our pricing rules.