

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

RE: Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27 and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket No. 03-264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules, WT Docket No. 06-169, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 07-72

Opening up the Lower and Upper 700 MHz Band for auction is America's best opportunity for spurring more competition in the broadband market. More than likely, we will not have another chance like this for years. That's why it is so important that we get it right. But we also need to act quickly. That's not just a good idea, it's the law. Congress has mandated that we start the auction no later than January 28, 2008, and deposit the auction proceeds by June 30, 2008. So, we appear to have some tension between getting it done right and meeting our statutory deadlines. That said, I am optimistic that we can produce high-quality service and auction rules on time. However, I am not without some anxiety.

It is important to note that the Commission is not reaching any tentative conclusions with respect to the band plan today. We are inviting additional comment and debate on several ideas. And, I thank the Chairman for his patience and flexibility in this regard. I'd also like to make clear that I have not reached conclusions on certain of the proposals discussed in today's *Further Notice*. That's why I'm delighted we'll be building a more complete record upon which to make an informed decision.

In my view, to "get it right," the Commission must ensure that businesses of all sizes have a fair opportunity to bid on varied market sizes in both the Upper *and* Lower bands of the 700 MHz slice. The Lower and Upper portions offer their own attributes that are attractive to different entities for different reasons. Accordingly, both the Upper and Lower portions should be accessible at auction to all bona fide bidders regardless of size. Ideally, our rules should also provide bidders the flexibility to aggregate markets together to create either a nationwide market, or large, regional or other customized markets much like that occurred in the AWS auction, but even better. Providing such equal opportunities will help increase the chances of competition in the broadband market for the benefit of *all* Americans. The more players we have competing both between and within platforms, the better. Such competition will also spur untold economic growth.

Some may be concerned that allowing for smaller market sizes in the Upper portion of the band may preclude the ability of some entities to secure a nationwide license to provide a new, competitive broadband platform, or a “third pipe.” I’d like to hear more about those concerns. In the AWS auction, we witnessed a successful effort that fashioned together EA markets to form a virtual nationwide license. I welcome a discussion regarding that may or may not work in the 700 MHz band. However, we must be careful to ensure that we do not overly-tailor our auction rules to fit a particular business plan because there are never any guarantees as to who will participate at auction, or for how long.

Should we be limited to three pipes? Why not four, five or more? Are only national companies capable of providing such alternative platforms? What about regional players or local providers? Small town entrepreneurs? I hope commenters will help provide answers to these important questions.

In a perfect world, we would be completing our work in the 700 MHz commercial services proceeding today, and interested parties and potential auction participants would have both the certainty and time necessary to give consideration to the significant matters surrounding participation in a spectrum auction. But we live in an imperfect world where issues to be resolved by rulemakings are complex. In this spirit, I support the Commission’s effort to seek additional comment on the unresolved matters relating to our upcoming auction of spectrum in the 700 MHz band.

Once we reach the end of this process, I hope that I find that my concerns were misplaced. It goes without saying that I will do all I can to ensure that the Commission completes this proceeding in record time.

Finally, in addition to my thanks to the Chairman and my colleagues, I want to acknowledge the hard working and talented staff of the Wireless Telecommunications Bureau. We have a number of milestones ahead of us, and I thank you for your diligence despite the demanding schedule associated with this proceeding.