STATEMENT OF
COMMISSIONER MICHAEL J. COPPS
APPROVING

Re: *In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, Declaratory Ruling (FCC Docket No. 09-99, WT Docket No. 08-165)

Today's action makes a further down-payment on the objectives of the National Broadband Plan to ensure that all Americans have access to Twenty-first century communications. Wireless service is clearly going to play—is already playing—a huge role in delivering broadband to rural areas—with the capability of offering connectivity where none exists today and mind-boggling new services to consumers as networks are upgraded. Building wireless broadband infrastructure—and building it expeditiously—is integral to our nation's success in too many ways to recount here this morning. Nor do we have to go beyond the obvious in pointing out how urgent it is to have tower infrastructure in place to support all this.

Building new wireless towers and attaching additional antennae to existing towers generally require—and rightly so—State and local zoning approval. State and local governments are the ones best positioned to take into account the legitimate interests of citizens in their communities in often-complex zoning decisions. Congress, in enacting Section 332 of the Communications Act, preserved this important zoning role that State and local authorities play. At the same time, in order to encourage the expansion of wireless networks nationwide, Congress directed that zoning decisions be made "within a reasonable period of time," allowing court review for failure to act within that timeframe.

In today's decision, we seek to provide greater certainty to both State and local governments, as well as to the wireless industry, as to what constitutes a reasonable period of review for collocation and other tower siting applications. Based on the record and our interpretation of the statute, we clarify the point at which an applicant may seek—should it choose to do so—court review where a State or local zoning authority has not acted. While we establish a presumption here, nothing in this decision reduces the authority of a court of relevant jurisdiction from assessing, based on the merits of any individual case, whether a zoning review of more than 90 days for collocation applications or 150 days for other tower siting applications is reasonable.

I am a great believer in our federal system of government, and have not been shy in the past about opposing Commission action that unnecessarily encroached on the authority of State and local governments. It is for that reason that I strongly dissented from the 2006 *Local Franchising Order*—which I thought went too far in usurping the authority of local franchising authorities without an adequately granular record to justify such action. Additionally, the Commission announced in that previous decision that a cable franchise application pending for more than a given timeframe was deemed granted. Nothing subtle about that approach!

We take no such actions today. Instead, we actually recognize the rights of State and local jurisdictions and also the importance of the courts. We refrain from dictating final outcomes. But we give an important boost to getting this important infrastructure building job done so that consumers may reap more of the blessings of the great potential of wireless technologies and services. That looks like a win-win-win to me. So I commend the Chairman for getting this important item to us, and I thank all my colleagues, and the Bureau, too, for their hard work and for listening to the concerns of ***all*** parties as we went about crafting today's ruling. It's fair and balanced for real and I am pleased to support it.