

SEPARATE STATEMENT OF COMMISSIONER KATHLEEN Q. ABERNATHY

Re: Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers, WC Docket No. 03-173 (adopted Sept. 10, 2003).

Since joining the Commission, I have advocated taking a fresh look at the Commission's UNE pricing rules, and I am pleased that we are commencing such a proceeding today. The Notice recognizes two key problems with the TELRIC pricing standard. First, it is a black box that permits inconsistent results among the states for reasons unrelated to actual cost differentials, and it also permits internal inconsistencies within individual rate proceedings. Second, the excessively hypothetical nature of the Commission's existing standard sends inappropriate investment signals and produces irrational pricing in some instances.

The Notice we adopt today sets us down a different path — one bounded by the real-world attributes of incumbent LECs' networks and the recognition that wireline networks cannot incorporate new technologies instantaneously. I support the tentative conclusion in the Notice that reflects these concepts. In fact, despite the controversy often surrounding tentative conclusions, I believe that most carriers agree that the UNE pricing standard should be constrained by reality, as opposed to being purely hypothetical. Incumbents and competitors simply disagree about the extent to which current prices are grounded in realistic assumptions about network architecture and usage patterns. This rulemaking will put their competing claims to the test, and it will give parties the opportunity to propose a variety of methodological changes concerning how states determine input values. It will also enable the Commission to modify pricing rules in accordance with the changes to our unbundling regime that were adopted in the *Triennial Review Order*. I commend the Wireline Competition Bureau and my colleagues for drafting a comprehensive and balanced NPRM, and I look forward to reviewing the record and adopting revised rules.