

**JOINT STATEMENT OF
COMMISSIONERS KATHLEEN Q. ABERNATHY AND JOHNATHAN S. ADELSTEIN**

Re: Applications of Savannah College of Art and Design and Diocese of Savannah for Construction Permit and License in the Instructional Television Fixed Service on the G-Group Channels at Bloomington, Georgia and A Group Channels at Savannah, Georgia, File No. BPLIF-951020AN

Upon reviewing the record in this proceeding, it is evident that numerous procedural mistakes were made. Unfortunately, we cannot change this fact. At this point our responsibility is to determine whether the Diocese of Savannah (Diocese) and the Savannah College of Art and Design (SCAD) filed valid applications for the A-Group channels at Savannah, Georgia and the G-Group channels at Bloomingdale, Georgia. Based on the record in this proceeding, it is clear that the applications were filed on a **contingent** basis. In fact, the cover letters of both applications specifically stated the applications were contingent on the favorable ruling of a separate filing, an outcome which in fact did not occur. Since the Commission's rules expressly provide that contingent applications will not be accepted for filing, we are voting to support today's decision.

We regret the facts of this case bar us from supporting the award of the subject channels to SCAD and the Diocese and ensuring the productive use of this spectrum. However, we cannot legally reinstate an application that was fundamentally flawed.

We agree with the dissent that the Commission should not allow valuable spectrum to lay fallow, especially spectrum designated for educational broadcasting. That is why we are pleased that the Chairman has included as a top priority concluding the MMDS/ITFS Rulemaking Proceeding, as well as improving the efficiency of our licensing processes. With these efforts, we are hopeful that the Commission in the future will not have to address unfortunate situations like this one.