

**CONCURRING STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

*Re: Section 272(b)(1) "Operate Independently" Requirement for Section 272
Affiliates, WC Docket No. 03-228*

Petition of Verizon for Forbearance from the Prohibition of Sharing Operating, Installation, and Maintenance Functions Under Section 53.203(a)(2) of the Commission's Rules; **CC Docket No. 96-149**

I am pleased that the Commission is reviewing its requirements regarding its OI &M rules governing a Bell Operating Company's (BOC) section 272 affiliate. Although I had reservations about the statutory authority to allow the Commission to forbear from the statute, I support the notice asking whether these rules are required. I concur in the notice, however, because I am disappointed by my colleagues failure to support a tentative conclusion to eliminate these rules. In my view, sufficient evidence exists to tentatively conclude that the operating, installation, and maintenance sharing prohibition is an overbroad means of preventing improper cost allocation or discrimination as required by the statute.

Finally, I am confused as to why some of my colleagues advocate complete elimination of any OI&M requirement as in the public interest in one item, but are unwilling to support the same "tentative conclusion" in the other item. If they were willing to decide the issue finally today, why are they unwilling to make the same conclusion tentatively.