

**STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

In the Matter of Western Wireless Corporation and WWC Holding Co., Inc.

On all the facts of this matter, I support the Commission's decision to cancel the Notice of Apparent Liability for Forfeiture previously issued against Western Wireless Corporation and WWC Holding Co., Inc. I note, however, that the Commission recently revised its environmental rules to implement a Nationwide Programmatic Agreement that tailors, streamlines, and clarifies the procedures for evaluating the effects of undertakings on historic properties under the National Historic Preservation Act.¹ The new rule makes clear that the provisions of the Nationwide Programmatic Agreement are mandatory and binding upon applicants, and that non-compliance with its procedures will subject a party to potential enforcement action.² Given the clarity of the procedures specified in the Nationwide Programmatic Agreement, I would find it particularly difficult to excuse a failure to follow these mandatory steps going forward. Accordingly, I expect to consider the existence of this revised rule in assessing whether, and the amount in which, a forfeiture is appropriate in the event of future rule violations.

¹*Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, WT Docket No. 03-128, Report and Order, FCC 04-222 (rel. Oct. 5, 2004).

²*Id.* at ¶ 169.