

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,
CONCURRING**

Re: *Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 06-172, Memorandum Opinion and Order

I support today's Order which denies petitioner forbearance relief from dominant carrier regulation and from its UNE and *Computer III* obligations. In doing so, the Commission further supports its view that *Qwest-Omaha* and *ACS-Anchorage* were truly unique situations. I concur in this decision because the Commission continues to rely too heavily on the intermodal efforts of a single alternative provider to decide whether we should forbear from the incumbent's retail and wholesale obligations. The Telecom Act envisioned more than just a cable-telephone duopoly as sufficient competition in the marketplace. In this case, the Order fortunately finds that forbearance is inappropriate because the petitioner does not face enough facilities-based competition from the local cable operator to meet Section 10's forbearance standard. However, I remain concerned that under the Commission's analysis, forbearance might be deemed appropriate were cable found to have a larger market share. Such a finding in the future would put at risk smaller competitive providers as evidenced by the fact that some competitors chose not to compete in Omaha after the *Qwest-Omaha* forbearance decision. I would have been more comfortable with an analysis less accepting of duopoly as a competitive marketplace and that did not lead us further down this road.

While the final outcome in this case is a good one, I continue to be less than enthused about the process that got the Commission here at all. Just consider the amount of resources the Commission has expended in the last 15 months working to adjudicate this matter. And this is not to mention the resources spent by numerous competitors with far less resources than the incumbent telephone company. Further, the Commission's policy making was dictated largely by the petitioner. The Commission's decision would not have applied on an industry-wide basis as it typically does in a rulemaking. Instead, granting the petition would have merely sparked more forbearance petitions. And just imagine the wholly wasted resources had the petitioner decided to withdraw the petition at the eleventh hour as others have done when they were unhappy with the proposed result. The Commission could have addressed some of the procedural flaws in the context of this Order but chose not to do so. In light of all this, I certainly hope that we complete the recently announced NPRM on forbearance procedures as expeditiously as possible.