

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

Re:*Petition of OrbitCom, Inc. for Forbearance from the CLEC Access Charge Rules, WC Docket No. 08-162*

The forbearance petition before the Commission does not meet the minimum statutory criteria necessary to grant relief from the Commission’s tariff rules and therefore should be denied. The fact is that the Commission lacks the information necessary to determine whether granting forbearance could possibly be justified in this case. The petition is only a single page with no documentation filed to support the relief being sought. Rather than expend the Commission’s limited resources on such a thinly-supported petition, perhaps the Commission should have dismissed the petition as deficient when it was first filed. Or, perhaps, the Commission should have remedied the petition’s deficiencies by seeking to develop the information necessary to make a fully-informed decision. The Commission took neither of those tacks. As a result, the Commission is now in the unfortunate position of having to either grant or deny the forbearance petition despite the lack of information – to take no action would result in the petition being “deemed granted.”

The Commission has now seen the two ends of the spectrum when it comes to the forbearance process. On one end is the case where forbearance is deemed granted because after due consideration the decision lacks a majority of support. On the other end we now have a forbearance petition that could have been deemed granted without sufficient consideration due to a lack of information. Neither outcome is a good one and both demonstrate the clear need for better procedural rules and an end to the deemed granted scenario. To ensure that the petition before the Commission is not granted without adequate evidence, I concur in the decision.