

**STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Christopher Falletti Application for Construction Permit for New FM Station, Medina, North Dakota*, File No. BNPH-20120518AAE, Facility ID No. 190421.

Although today's item reaches the correct result, the path to denying this Application for Review is far more complicated than it should have been. In 1998, the Commission stated that it was "eliminat[ing] the reasonable assurance of site certification requirement for all broadcast and secondary broadcast new and major change applicants."¹ Instead, it indicated that it would "rely on the strict enforcement of our existing construction requirements to ensure that winning bidders in future broadcast auctions construct their facilities in a timely manner."² Currently, however, the instructions for the application for a construction permit to build a commercial broadcast station advise: "All applicants for broadcast facilities must have a reasonable assurance that the specified site will be available **at the time they file FCC Form 301.**"³

In my view, it is the tension between the Commission's 1998 order and the instructions for filling out FCC Form 301 that is primarily responsible for the conflicting Commission precedents discussed in this item⁴ and the number of ongoing disputes regarding this issue. As a result, I hope that we will take steps forthwith to amend the instructions for FCC Form 301 to bring them in line with the policy set forth in today's item.

¹ *Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Televised Fixed Services Licenses et al.*, MM Docket No. 97-234 et al., First Report and Order, 13 FCC Rcd 15920, 15982, para. 174 (1998).

² *Id.* at 15981, para. 172.

³ Instructions for FCC Form 301, Section 1.L, <http://transition.fcc.gov/Forms/Form301/301.pdf> (visited Jan. 20, 2014).

⁴ *See Order* at para. 9.