

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Walker Broadcasting Company, Inc. Application for License to Cover Construction Permit, Application for Construction Permit and Petition for Eligible Entity Status, WFBT(DT), Bath, New York, Fac. ID No. 72623, File Nos. BLCDT-20090402AOD and BPCDT-20080319ADH; Application Procedures for Broadcast Incentive Auction Scheduled To Begin on March 29, 2016; Technical Formulas for Competitive Bidding, AU Docket No. 14-252; GN Docket No. 12-268; WT Docket No. 12-269.*

Although I support today's decision, I have some concerns about the events that got us here. First, this serves as another example of the perils of providing discretionary protection to a select class. By expanding the class of television stations eligible to participate in the incentive auction, the Commission subjects itself to legal challenges from other entities that think they are similarly situated and entitled to relief.<sup>1</sup> Although the Commission's decision may be well-intentioned, the preferable approach would have been to implement the Spectrum Act as written.

Additionally, going forward, we should look to improve our application review and licensing processes. The construction permit at issue automatically expired on April 3, 2009. However, the station appeared to be active and an incomplete application for a license to cover the construction permit remained pending in the Commission's database, allowing the entity to file an amendment on May 28, 2015, more than six years later. Instead, the status of the construction permit should have been updated to reflect the expiration and the application should have been dismissed years earlier. I am pleased to hear that the Media Bureau's new licensing system will contain improvements that should rectify this problem in the future.

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<sup>1</sup> *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Order on Reconsideration, FCC 16-12, at 23 (Feb. 12, 2016).