**STATEMENT OF**

**COMMISSIONER MICHAEL O’RIELLY**

**CONCURRING IN PART AND DISSENTING IN PART**

Re: *Northstar Wireless, LLC,* File Nos. 0006670613, 0008243409; *SNR Wireless LicenseCo, LLC,* File Nos.0006670667, 0008243669; *Applications for New Licenses in the 1695-1710 MHz, and 1755-1780 MHz and 2155-2180 MHz Bands*, Report No. AUC-97AUC

When I first voted on the designated entity status of SNR and Northstar in August 2015, I agreed with the analysis that DISH exercised effective control over these two auction participants, making them ineligible for bidding credits. The order detailed how the actions of the entities during the auction and the agreements entered into by the parties were not consistent with the Commission’s rules. In reviewing this decision, the U.S. Court of Appeals for the D.C. Circuit generally agreed with the Commission’s findings but remanded the case due to a failure to allow the parties the opportunity to cure their previous filings. Accordingly, the parties have since amended certain agreements in an attempt to come into compliance with the Commission’s rules. While I appreciate their efforts, I agree that these revisions are insufficient to warrant a finding that DISH lacks the ability to unduly influence SNR and Northstar’s operations and decision making.

The Commission’s fact-based designated entity determinations are, under even best-case scenarios, far from a perfect process, and I am sympathetic to the frustrations of all those involved. But, these were the rules in place at the time, and it is unfortunate that our case-by-case analysis did not give applicants the certainty or transparency they wanted, either prior to the auction or in response to their eligibility being challenged.

These procedural flaws were exaggerated, in this case, because the process has inexplicably been mishandled and dragged out for over five years. While litigation always takes time, the Commission voted in July 2018 on the process to expedite our final decision in response to the court’s August 2017 remand. It is now well over two years after the Commission voted on the remand order. All parties deserve quick responses from the Commission, whether they agree with our decisions or not, and whether we agree with the Court or not. Entities need to be able to make business decisions not only about their spectrum needs but about capital expenditures, and we keep them in limbo by failing to adequately respond in a timely fashion. Additionally, letting licenses sit dormant for long stretches of time is very problematic. Everyone deserves better.

For these reasons, I concur in the outcome of today’s item, but dissent in part with respect to the extremely flawed process.