

SEPARATE STATEMENT OF COMMISSIONER KATHLEEN Q. ABERNATHY

In re: Disposition of Down Payment and Pending Applications By Certain Winning Bidders in Auction No. 35, Requests for Refunds of Down Payments Made in Auction No. 35, WT Docket No. 02-276

I enthusiastically support today's Order. I have long believed that the delays occasioned by extensive litigation, when combined with significant changes in the marketplace over the last several years, lead us to today's result. In light of the ongoing uncertainty regarding our ability to award these licenses and current economic conditions, I do not believe the public interest is served by tying up deposits and, perhaps worse, subjecting carriers to the risk of having to produce billions of dollars on short notice if the Commission prevails in the U.S. Supreme Court. These factors have produced a financial overhang that makes it difficult for carriers to make much-needed infrastructure investments and service upgrades. Today's action by the Commission should provide relief from these constraints. It will allow carriers to use deposit money more productively and enhance their ability to attract additional capital, thus ultimately benefiting consumers.