

**JOINT STATEMENT OF
COMMISSIONER MICHAEL J. COPPS AND
COMMISSIONER JONATHAN S. ADELSTEIN,
DISSENTING**

Re: *Public Notice, Section 272 Sunsets For SBC in the States of Kansas and Oklahoma By Operation of Law on January 22, 2004 Pursuant To Section 272(f)(1)* (WC Docket No. 02-112)

Today the Commission releases a Public Notice announcing sunset of the Section 272 separate affiliate requirement for SBC in Kansas and Oklahoma. Yet no analysis or review of the market in either state accompanies this decision. Because we believe the Commission has a duty to do more than offer such a bare Public Notice, we cannot support this action.

In Section 272, Congress required Bell companies to provide long distance and manufacturing services through a separate affiliate. Congress adopted these safeguards because it recognized that Bell companies might still exercise market power at the time they enter long-distance markets. Congress specifically provided that the Section 272 separate affiliate requirement would continue for three years, but could be extended by the Commission by rule or order.

The Commission, however, does nothing here to determine whether there is a continuing need for these safeguards in either Kansas or Oklahoma. This is unfortunate. The Commission pursued the same misguided course in Public Notices announcing sunset of the New York and Texas separate affiliates. Just as we were troubled by these earlier failures to analyze the continuing need for Section 272 safeguards, we are troubled here.¹ As before, we are left wondering how the Commission can justify sunset while it leaves unresolved the development of alternative safeguards in its performance measurements docket. Similarly, we are left wondering how the Commission moves forward today while leaving incomplete its proposed rulemaking concerning carrier classification following Section 272 sunset. In light of these outstanding questions and the short shrift this Public Notice gives to our statutory responsibilities, we choose to dissent from today's decision.

¹ See Dissenting Statement of Commissioner Jonathan S. Adelstein and Michael J. Copps, *Section 272 Sunsets for Verizon in New York State by Operation of Law on December 23, 2002 Pursuant to Section 272(f)(1)*, WC Docket No. 02-112, Public Notice, FCC 02-335 (rel. Dec. 23, 2002); Dissenting Statement of Commissioner Jonathan S. Adelstein and Michael J. Copps, *Section 272 Sunsets for SBC in the State of Texas by Operation of Law on June 30, 2003 Pursuant to Section 272(f)(1)*, WC Docket No. 02-112, Public Notice, FCC 03-155 (rel. Jun. 30, 2003).