

**Separate Statement of  
Commissioner Kevin J. Martin**

*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.*

Today the Commission finally takes action to relieve the winning bidders in Auction No. 35 of their obligations. The history of this Auction and the commensurate litigation has been long and tortured.

This spring the Commission refunded a substantial portion of the monies on deposit to the winning bidders, but left their obligations in place. In light of the on-going economic burden of these obligations and the continuing litigation, the Commission should not keep these obligations in place any longer.

Indeed, I have long thought that the Commission could and should provide an additional stimulus to the industry and the economy as a whole by relaxing these obligations.

I dissent in part, however, to the decision's requirement that carriers withdraw from the entire auction to be relieved of any of their obligations. I do not see a need to require carriers to make a single election for all of the markets awarded at auction as a condition to withdrawing from any one market.

My hope is that today's decision provides Eligible Auction 35 winners with finality and the certainty necessary to "lay the foundation for renewed investment, innovation, and job producing growth, both in the telecommunications industry and in the economy as a whole."<sup>1</sup>

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<sup>1</sup> Letter from Secretary of Commerce Donald L. Evans to Chairman Michael K. Powell (Oct. 10, 2002).