(d) If the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, a public notice will be issued announcing that the broadcast construction permit(s) is ready to be granted, upon full payment of the balance of the winning bid(s). See 47 CFR 73.5003. Construction of broadcast stations shall not commence until the grant of such permit or license to the winning bidder.

45. Section 73.5007 is amended by deleting paragraph (b)(2)(vi) and revising paragraphs (b)(2)(iv) and (v) to read as follows:

§ 73.5007 Designated entity provisions.

* * * * *

(b)(2)

* * *

(iv) Cable television system--the franchised community of a cable system; and
(v) Daily newspaper--community of publication.

* * * * *

46. Section 73.5008 is amended by revising paragraph (b) to read as follows:

* * * * *

(b) A medium of mass communications means a daily newspaper; a cable television system; or a license or construction permit for a television broadcast station, an AM or FM broadcast station, or a direct broadcast satellite transponder.

* * * * *

PART 74 --- EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCASTING AND OTHERPROGRAM DISTRIBUTIONAL SERVICES

47. The authority citation for Part 74 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303, 307, and 554.

48. Section 74.1 is amended by revising paragraph (b) to read as follows:

§ 74.1 Scope.

* * * * *

(b) Rules in Part 74 which apply exclusively to a particular service are contained in that service subpart, as follows: Experimental Broadcast Stations, Subpart A; Remote Pickup Broadcast Stations, Subpart D; Aural Broadcast STL and Intercity Relay Stations, Subpart E; TV Auxiliary Broadcast Stations, Subpart F; Low-power TV, TV Translator and TV Booster Stations, Subpart G; Low-power Auxiliary Stations,

Subpart H; FM Broadcast Translator Stations and FM Broadcast Booster Stations, Subpart L.

49. Section 74.15 is amended by deleting paragraph (e) and redesignating paragraphs (f) and (g) as (e) and (f) respectively.

50. Section 74.703 is amended by revising paragraph (d) to read as follows:

§ 74.703 Interference.

* * * * *

d) When a low-power TV or TV translator station causes interference to a CATV system by radiations within its assigned channel at the cable headend or on the output channel of any system converter located at a receiver, the earlier user, whether cable system or low-power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference. When a low-power TV or TV translator station causes interference to a BRS or EBS system by radiations within its assigned channel on the output channel of any system converter located at a receiver, the earlier user, whether BRS system or low-power TV or TV translator station, will be given priority on the channel, and the later user will be responsible for correction of the interference.

* * * * *

51. Section 74.832 is amended by revising paragraph (a) to read as follows:

§ 74.832 Licensing requirements and procedures.

(a) * * *

(6) Licensees and conditional licensees of stations in the Service and Multichannel Multipoint Distribution Service as defined in § 21.2 of this chapter, or entities that hold an executed lease agreement with an MDS or MMDS licensee or conditional licensee or with an Instructional Television Fixed Service licensee or permittee.

* * * * *

52. Subpart I is removed and reserved.

PART 76 - MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

53. The authority for Part 76 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302a, 303, 303a, 307, 308, 309, 312, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 531, 571, 572, and 573.

54. Section 76.64 is amended by revising paragraph (d) to read as follows:

§ 76.64 Retransmission consent.

* * * * *

(d) A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, or a satellite master antenna television system operator, that makes available for purchase, by subscribers or customers, multiple channels of video programming.

* * * * *

55. Section 76.71 is amended by revising paragraph (a) to read as follows:

§ 76.71 Scope of application.

(a) The provisions of this subpart shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system. Cable entities subject to these provisions include those systems defined in § 76.5(a), all satellite master antenna television systems serving 50 or more subscribers, and any multichannel video programming distributor. For purposes of the provisions of this subpart, a multichannel video programming distributor is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, or a video dialtone program service provider, who makes available for purchase, by subscribers or customers, multiple channels of video programming, whether or not a licensee. Multichannel video programming distributors do not include any entity which lacks control over the video programming distributed. For purposes of this subpart, an entity has control over the video programming it distributes, if it selects video programming channels or programs and determines how they are presented for sale to consumers. Nothwithstanding the foregoing, the regulations in this subpart are not applicable to the owners or originators (of programs or channels of programming) that distribute six or fewer channels of commonly-owned video programming over a leased transport facility. For purposes of this subpart, programming services are "commonly- owned" if the same entity holds a majority of the stock (or is a general partner) of each program service.

* * * * *

56. Section 76.503 is amended by revising paragraph (e) to read as follows:

§ 76.503 National Subscriber Limits.

* * * * *

(e) "Multichannel video-programming subscribers" means subscribers who receive multichannel video-programming from cable systems, direct broadcast satellite services, direct-to-home satellite services, BRS/EBS, local multipoint distribution services, satellite master antenna television services (as defined in § 76.5(a)(2)), and open video systems.

* * * * *

57. Section 76.905 is amended by revising paragraph (d) to read as follows:

§ 76.905 Standards for identification of cable systems subject to effective competition.

* * * * *

(d) A multichannel video program distributor, for purposes of this section, is an entity such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, a video dialtone service provider, or a satellite master antenna television service provider that makes available for purchase, by subscribers or customers, multiple channels of video programming.

* * * * *

58. Section 76.1000 is amended by revising paragraph (e) to read as follows:

§ 76.1000 Definitions

* * * * *

(e) Multichannel video programming distributor. The term "multichannel video programming distributor" means an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities.

* * * * *

59. Section 76.1200 is amended by revising paragraphs (a) and (b) to read as follows:

§ 76.1200 Definitions.

As used in this subpart:

(a) Multichannel video programming system. A distribution system that makes available for purchase, by customers or subscribers, multiple channels of video programming other than an open video system as defined by § 76.1500(a). Such systems include, but are not limited to, cable television systems, BRS/EBS systems, direct broadcast satellite systems, other systems for providing direct-to-home multichannel video programming via satellite, and satellite master antenna systems.

(b) Multichannel video programming distributor. A person such as, but not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, or a television receive-only satellite program distributor, who owns or operates a multichannel video programming system.

* * * * *

60. Section 76.1300 is amended by revising paragraph (d) to read as follows:

§ 76.1300 Definitions.

* * * * *

(d) Multichannel video programming distributor. The term "multichannel video programming distributor" means an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a BRS/EBS provider, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities.

* * * * *

PART 78 – CABLE TELEVISION RELAY SERVICE

61. The authority for Part 78 continues to read as follows:

AUTHORITY: 47 U.S.C. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

62. Section 78.1 is amended to read as follows:

§ 78.1 Purpose.

The rules and regulations set forth in this part provide for the licensing and operation of fixed or mobile cable television relay service stations (CARS) used for the transmission of television and related audio signals, signals of standard and FM broadcast stations, signals of BRS/EBS fixed stations, and cablecasting from the point of reception to a terminal point from which the signals are distributed to the public by cable. In addition CARS stations may be used to transmit television and related audio signals to TV translator and low-power TV stations.

63. Section 78.5 is amended by revising paragraph (j) to read as follows:

§ 78.5 Definitions.

* * * * *

(j) Other eligible system. A system comprised of microwave radio channels in the BRS/EBS spectrum (as defined in Subpart M of Part 27) that delivers multichannel television service over the air to subscribers.

* * * * *

64. Section 78.11 is amended by revising paragraph (a) to read as follows:

§ 78.11 Permissible service.

(a) CARS stations are authorized to relay TV broadcast and low-power TV and related audio signals, the signals of AM and FM broadcast stations, signals of BRS/EBS fixed stations, and cablecasting intended for use by one or more cable television systems or other eligible systems. LDS stations are authorized to relay television broadcast and related audio signals, the signals of AM and FM broadcast stations, signals of BRS/EBS fixed stations, cablecasting, and such other communications as may be authorized by the Commission. Relaying includes retransmission of signals by intermediate relay stations in the system. CARS licensees may interconnect their facilities with those of other CARS, common carrier, or television auxiliary licensees, and may also retransmit the signals of such CARS, common carrier, or television auxiliary stations, provided that the program material retransmitted meets the requirements of this paragraph.

* * * * *

65. Section 78.13 is amended by deleting paragraph (e), redesignating paragraph (f) as paragraph (e) and revising paragraph (d) to read as follows:

§ 78.13 Eligibility for license.

* * * * *

(d) Licensees and conditional licensees of channels in the BRS/EBS band as defined in **§ 27.5(i)** of this chapter, or entities that hold an executed lease agreement with a BRS/EBS licensee or conditional licensee.

* * * * *

66. Section 79.1 is amended by revising paragraph (d) to read as follows:

§ 79.1 Closed captioning of video programming.

* * * * *

(d) * * *

(7) EBS programming. Video programming transmitted by an Educational Broadband Service licensee pursuant to part 27 of this chapter.

* * * * *

PART 101--FIXED MICROWAVE SERVICES

67. The authority citation for Part 101 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303.

68. Section 101.101 is amended by deleting the reference to the 2150-2160 MHz frequency band.

69. Section 101.147 is amended by deleting the reference to the 2150-2160 MHz frequency band in paragraph (a), and by deleting and reserving paragraphs (e) and (g).

APPENDIX D

LIST OF COMMENTERS

Comments

Adams Telecom, Inc., Central Texas Communications, Inc., & Leaco Rural Telephone
Ad Hoc MMDS Licensee Consortium
Archdiocese of Los Angeles
Archdiocese of New York
Arraycomm, Inc.
Atlanta Interfaith Broadcasters
BellSouth Corporation and BellSouth Wireless Cable, Inc.
Catholic Television Network and National ITFS Association
Cellular Telecommunications & Internet Association
Colorado State University
Comspec Corporation
Dallas MDS Partners
Department of Education Archdiocese of New York
Diocese of Brooklyn
Earthlink, Inc.
The Education Community
Education Service Center Region 10
Ericsson, Inc.
Fixed Wireless Holdings, LLC
Grand Alliance
Grand Wireless Company
Hardin and Associates, Inc.
Hispanic Information and Telecommunications Network, Inc.
Illinois Institute of Technology
Independent MMDS Licensee Coalition
Information Technology Industry Council
Intel Corporation
IPWireless, Inc.
The ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance
ITFS Parties
Lucent Technologies, Inc.
Michael Kelly Revocable Trust, d/a/a Shannondale Wireless
MMDS License Coalition
Motorola, Inc.
National Telecommunications Cooperative Association
Navini Networks, Inc.
Network for Instructional TV, Inc.
New America Foundation, et. al.
Nextnet Wireless, Inc.
NTCA
Ntelos, Inc.
Oklahoma Western Telephone Company, Inc.
PCIA
Rural Commenters

The School Board of Broward County
The School Board of Miami-Dade County, Florida
South Carolina Educational Television Commission
Spectrum Market, LLC
Sprint Corporation
Stanford University and Northeastern University
Teton Wireless Television, Inc.
Texas State Technical College, Harlingen
University of Colorada
Virginia Communications, Inc.
Wavetel, LLC
W.A.T.C.H. TV Company
Wireless Communications Association, International (WCA), National Instructional Television Fixed Service (NIA) and Catholic Television Network (CTN)
WH-TV, Inc. d/b/a Digital TV One
Winbeam, Inc.
Worldcom, Broadband Solutions, Inc.

Reply Comments

Adams Telecom, Inc., Central Texas Communications, Inc., & Leaco Rural Telephone
Alvarion
Gordon Archer
Arraycomm, Inc.
Atlanta Interfaith Broadcasters
BellSouth Corporation and BellSouth Wireless Cable, Inc.
Bway.Net, Inc.
California Amplifier, Inc.
Catholic Television Network and National ITFS Association
Celplan Technologies, Inc.
Clarendon Foundation
Comspec Corporation
Department of Education Archdiocese of New York
Digital TV One
The Education Community
Education Service Center Region 10
Fixed Wireless Holdings, LLC
Flarion Technologies, Inc.
Peter Frishauf
George Mason University Instructional Foundation, F Corporation, Michael Kelley Trust
Mary Gorman
Grand Alliance
Gryphon Wireless, LLC
Hispanic Information and Telecommunications Network, Inc.
Daniel Howe
Huntsville City Schools ETV
Intel Corporation
IPWireless, Inc.
The ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance
ITFS Spectrum Development Alliance, Inc.

Rob Kelley
Joshua Kronengold
Sascha D. Meinrath
Microsoft Corporation
Milwaukee Area Technical College District Board
The Mississippi Ednet Institute, Inc.
Navini Networks, Inc.
Network for Instructional TV, Inc.
New America Foundation, et. al.
Nextnet Wireless, Inc.
Nextel Communications, Inc.
North Carolina Community Colleges
Nucentrix Broadband Networks, Inc.
NTELOS, Inc.
Michael Oh
Polar Communications Mutual Aid Corporation
Pamela Quinn
Rural Commenters
H. Michael Sanders
San Diego ITFS Licensees
SBC Communications
School Board of Broward County
The School Board of Miami-Dade County, Florida
Sioux Valley Wireless
Kurt A Snodgrass
Soma Networks
Spectrum Market, LLC
Sprint Corporation
Stanford University, Northeastern University, Diocese of Brooklyn
Teton Wireless Television, Inc.
Blake Twedt & John Dudeck
University of Arizona
University of South Florida
WH-TV, Inc., D/B/A Digital TV One
Tom Zachman

Ex Parte Comments
Shaun Abshere
Accel Net, Inc.
ACUTA, Inc.
Ad Hoc MMDS Licensee Consortium
Aircable America
Aircomm Associates/Nutec Communications, Inc.
Tommy Allmand
Anaheim City School District
Archbishop of Chicago
Archbishop of Los Angeles
Atlanta Interfaith Broadcasters, Inc.
Dr. Herb Berg

Robert J. Berger
Bishop of Dallas
Moss Bresnahan, President of South Carolina ETV
Donald Briggs
Scott Brooke
James W. Browder
Robert H. Bruininks
John Bucher
Carolyn Burrow
Catholic Television Network and National ITFS Association
Carolyn Bukhair
Christopher Casebeer
Charleston County School District
Clearwire Corporation
Jennifer Davis
Digital Broadcast Corporation
Education Community, Catholic Television Network, and National ITFS Association
Educational Institutions
Electronic Frontier Foundation
Jim Emal
Lisa Faas
Joe Farmer
Robert J. Fear
Sidnie Feit
Tom Fletcher
Friends of WLRN, Inc.
George Mason University Instructional Foundation
W. Scott Gerstenberger
Alexander Gonzalez, President, California State University-Sacramento
Jim Gottlieb
John Haeger
Elisabeth Hall
Mike Hammett
Lenn Hann
Hawkeye Community College
HITV, Hernando County School Board
Joanne Hugi
Huntsville City Schools ETV Center
Illinois Institute of Technology & Stanford University
Information Technology Industry Council
Intel Corporation
Interested Education Parties
International Society for Technology in Education and Consortium for School Networking
IPWireless
Dr. Michael R. Kelley
Kirkwood Community College
H. Martin Lancaster, NC Community College System
Michael Lannon
Last Mile Wireless

Jack Lemley
Luxon Wireless
Sandy Maddox
Ed Mass
Mark McAllister
Allen McDaniel
Mary McLaughlin
Charles McMickle
Media Access Project
Stephen Merrill
Miami-Dade County Public Schools
Michiana Wireless
Minnesota Network Services
Missouri Southern State University
Mountain State College
Navini Networks, Inc.
Network For Instructional TV, Inc.
Nextel Communications, Inc.
New America Foundation, *et. al.*
Oregon Wireless Instructional Network
Oswalt Systems, Inc.
Hartwell Pendergrass
Private Networks, Inc.
Pamela K. Quinn
QwikWire.NET
Reliable Internet Services
James R. Richburg, President Okaloosa-Walton Community College
Connie Rodriguez
Rural Ramp
The School Board of Broward County
Mathew Schroebe
John Scrivner - Mt. Vernon. Net, Inc.
Fred Seitz
Sanford C. Shugart
Sioux Valley Wireless
Sprint Corporation
Stanford University
Statewide Internet Services
Texas ISP Association
Tim Steele
Kevin Sullivan
Tarrant County College District
Teton Wireless Television, Inc.
Troy Thoele - Cybercom Wireless
Traer Municipal Utilities
University of Cincinnati, Raymond Walters College, Dean Dolores Y. Straker
Steve H. Updegrove
WATCH TV Company
Webpipe.net, Inc.

James E. Wesner, University of Cincinnati
Gary Williams
Wireless Communications Association, International
Bill Wisneski
WISPA
Zirkel Wireless - Sean Heskett
Peter Zoller

APPENDIX E

DISMISSED MUTUALLY EXCLUSIVE ITFS APPLICATIONS

MX-groupings	Name	Group	Location
19920402DL	Hillsdale Community Schools	A	Albion, MI
19920402DM	Jonesville Community School	B	Albion, MI
19920717DA	Michigan Center School Dist.	A	Jackson, MI
19920717DB	Concord Community School	B	Jackson, MI
19920825DE	Clarendon Foundation	A	Baton Rouge, LA
19920917DB	Views on Learning	B	Baton Rouge, LA
19920925DE	ABG Foundation Nebraska Chapter, Inc.	D	Omaha, NE
19931228DJ	Louisiana Educational TV Authority	A	Plaquemine, LA
19931228DA	The Fd Ex LA Pub	C	Plaquemine, LA
19931230DU	Creighton University	D	Omaha, NE
9550910	WBSWP Licensing Corporation (MDS, MX with ITFS)	H	Boynton Beach, FL
19950524DD	Florida Atlantic University	C	Palm Beach, FL
19950915HW	The School Board of Dade County, Florida	F/G	Miami, FL
19950912DO	Instructional Telecommunications Foundation, Inc.	C	Salt Lake City, UT
19950914LC	Verde Valley School	D	Casa Grande, AZ
19951016AQ	Hispanic Info Telecom Network	D	Casa Grande, AZ
19951016AV	Hispanic Info Telecom Network	B	Bloomingdale, GA
19951016BJ	Hispanic Info Telecom Network	C	Santa Rosa, CA
19951017AM	Shekinah Network	B	Eureka, CA
19951018AD	Canyon County School	B	Boise, ID
19951019CC	CA State University Northridge	A/B	Santa Barbara
19951020AG	North American Catholic Educational Programming Foundation, Inc.	A	Eureka, CA
19951020AT	Santa Maria Joint Union HS	A/B	Santa Ynez, CA
19951020BC	The Delta-Montrose AVTC	B	Delta, CO
19951020BI	Tulane University of LA	A	Monroe, LA
19951020BL	Ft Hayes St University	A	Great Bend, KS
19951020ET	Hispanic Info Telecom Network	B	Boise, ID
19951020FM	Santa Rosa Junior College	C	Santa Rosa, CA
19951020GG	Hispanic Info Telecom Network	G	Billings, MT
19951020GI	Hispanic Info Telecom Network	B	Salinas, CA
19951020HK	LA Educational TV Auth	A	Delhi, LA
19951020KF	Chicago Inst Tech Td Inc	D	University PK, IL
19951020LD	North American Catholic Educational Programming	G	Alamosa, CO

	Foundation, Inc.		
19951020LM	The Clarendon Foundation	C	Ukiah, CA
	North American Catholic Educational Programming		
19951020NE	Foundation, Inc.	B	Delta, CO
19951020PK	The Information Res F	B	Grand Junction, CO
19951020PP	LA Educational TV Authority	A	Monroe, LA
19951020PZ	Views on Learning, Inc.	A	Eureka, CA
19951020QT	Hartnell Community College	B	Salinas, CA
19951020RB	Cornerstone Christian SS Inc.	A	Grand Junction, CO
19951020SG	Delta Cty Joint School D #51	A	Delta, CO
19951020SN	Provo School District	C	Provo, UT
19951020SQ	St. Bede Academy	D	Ottawa, IL
19951020SV	Unified Sch Dist 489	A	Hayes, KS
19951020WP	Hispanic Info Telecom Network	G	Alamosa, CO
19951020XT	Board of Education for Savannah	B	Bloomingdale, GA
19951020ZR	Yellowstone ED Cnt	G	Billings, MT
19951020GE	Currituck County Board of Education	D	Hertford, NC
19951020E2	Elizabeth City State University	D	Elizabeth City, NC
19951020UH	Roanoke Bible College	B	Elizabeth City, NC
19951020S5	Univ of NC General Admin	B	Chapel Hill, NC

APPENDIX F

DISMISSED PLEADINGS RELATING TO MUTUALLY EXCLUSIVE ITFS APPLICATIONS

File No.	Applicant	Petitioner	Type of Pleading	Date Pleading Filed
19920402DL	Hillsdale Community Schools	Wireless Cable, Inc.	Petition to Deny	2/19/1993
19920402DM	Jonesville Community Schools	Wireless Cable, Inc.	Petition to Deny	2/19/1993
19920717DA	Michigan Center School District	Hillsdale Community Schools	Petition to Deny	2/5/1993
19951020SN	Provo School District	Instructional Telecommunications Foundation, Inc.	Petition to Deny	7/11/1997
19920925DE	ABG Foundation, Nebraska Chapter, Inc.	USA Wireless Cable, Inc.	Petition to Deny	12/30/1993
9550910	WBSWP Licensing Corp.	WBSWP Licensing Corp.	Waiver Request	5/24/1995
19950915HW	The School Board of Dade County, Florida	The School District of Broward County, Florida	Petition to Deny	11/1/1996
19950524DD	Florida Atlantic University	The School Board of Dade County, Florida	Petition to Deny	11/1/1996

SEPARATE STATEMENT OF
CHAIRMAN MICHAEL K. POWELL

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Education and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands (WT Docket No. 03-66); et al., Report and Order and Further Notice of Proposed Rulemaking.

We are witnessing the dawn of a new era for wireless broadband. Today's decision does away with heavy-handed rules that have governed the MDS/ITFS band ("2.5 GHz band") for far too long. Freed from regulatory shackles, educational institutions will now have the flexibility to utilize their spectrum in the way most advantageous to the students and the public they serve.

The magnitude of today's ruling is apparent when one considers that this band is *double* the spectrum that sparked the WiFi explosion at 2.4 GHz and equivalent to the entire spectrum devoted to terrestrial mobile, wireless services. Until now, 2.5 GHz has failed to emulate the successes experienced by these other bands.

This Order gives ITFS and the newly named Broadband Radio Service (BRS) licensees new options for developing and deploying innovative technologies including low-power, mobile wireless broadband technologies. These systems will provide a competitive alternative to cable modem and DSL service and will transform the marketplace by expanding broadband rural areas and decreasing the price of current broadband services.

In addition, this Order offers more choices to educational institutions. Under these new rules, licensees can choose to continue delivering high-powered educational television, develop new instructional uses over the ITFS spectrum, or lease excess capacity to commercial operators to fund alternative educational delivery methods. It's up to them to decide what makes the most sense to serve their community.

Today's decision is yet another milestone in this drive to expand the advanced broadband services nationwide. By promoting education, competition, innovation, and broadband deployment today's decision helps benefit us all.

Lastly, I would like to express my sincere gratitude to the Wireless Bureau staff who worked many long hours to resolve the difficult issues presented in this proceeding. I'd also like to thank everyone who participated in this proceeding, my esteemed colleagues, the agency Bureaus, educators, and the industry, for their comments and insightful proposals.

SEPARATE STATEMENT OF FCC COMMISSIONER KATHLEEN Q. ABERNATHY

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2650 MHz Bands; et al., WT Docket No. 03-66, Report and Order and Further Notice of Proposed Rulemaking

With this order the Commission furthers two critical goals: maximizing the efficient use of the spectrum resource and facilitating the deployment of broadband services to all Americans. While many MMDS and ITFS licensees currently provide very valuable services to the public, it appears that these services have not yet reached their full potential and some of the spectrum remains underutilized. Licensees have repeatedly told us that regulatory hurdles thwart their attempts to deploy the new, innovative services demanded by the market.

This order responds directly to a proposal from the ITFS and MMDS industries for major revision of current regulations. Our intent is to ensure these services will no longer be hindered by outdated and overly restrictive regulation. While we have not adopted the industry proposal in total, we have used it as a solid basis for many of the rule changes we adopt today. These new policies will promote greater flexibility for the newly named Broadband Radio Service (BRS) licensees so that they can deploy new products, such as a third broadband pipe to the home, a mobile solution, a broadcast alternative, or some other service, as driven by the market. In addition, this order grants the educational community the same flexibility as commercial users in order to ensure that our nation's educators have access to the most innovative technologies and services.

As BRS and ITFS licensees transition to our new band plan, I look forward to receiving the upcoming reports from the Wireless Telecommunications Bureau which will monitor and evaluate the use of the band to ensure that the spectrum is being used efficiently and effectively.

Finally, I want to thank all the parties that participated in this proceeding for their cooperation and input, as well as the staff of the Wireless Telecommunications Bureau for their tireless work to quickly resolve the many issues presented to us in this proceeding.

SEPARATE STATEMENT OF COMMISSIONER MICHAEL J. COPPS

RE: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Use of the Universal Licensing System in the 2150-2162 and 2500-2690 MHz Bands; Part 1 of the Commission's Rules – Further Competitive Bidding Procedures; Amendment of Parts 21 an 74 to enable Multipoint Distribution Service and the Instructional Television Fixed Service Amendment of Parts 21 and 74 to Engage in Fixed Two-Way Transmissions; Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico (Report and Order and Further Notice of Public Rulemaking)*

Today we take a major step toward providing stability in the MMDS and ITFS band. We establish a new band plan that separates high-power operations from low-power operations. We create a transition mechanism designed to move us from the current plan to a new three-part band plan. And, most importantly, we resolve with finality the question of ITFS eligibility. ITFS licenses are, and will continue to be, reserved for educators. Uncertainty on all these matters has created a confusing environment for too long, and it has held back needed investment. But now 1,275 ITFS licensees in 70,000 locations have the stability they need to make the most of this spectrum. I thank the Chairman and my colleagues for making this the case.

So now our ITFS and MMDS licensees can fully demonstrate to the Commission that with this stability they will build out their systems. Many licensees are already doing incredible work and making efficient and intensive use of the spectrum. Others are not, but now they have the opportunity—and the obligation—to do so. The Bureau has been tasked with reporting to the Commission on progress on the transition and on the intensity of use of the band. While we all understand that the dislocations caused by the transition will have an impact on deployment schedules, every licensee must work hard to ensure that they move forward and put this valuable spectrum to use rapidly. There are many who believe that MMDS and ITFS licensees will not use the spectrum efficiently. I think they are wrong. This is your chance, licensees, to prove the skeptics wrong.

The best ITFS licensees provide an example of how the public's spectrum can truly be used to serve the public interest. Children are educated. Distance learning is enabled. Rural access becomes a reality. Let's make the best of ITFS the rule for the whole band.

Thanks to the Bureau and thanks again to my colleagues for all the hard work on this difficult item. I believe that our collaboration has produced very positive results.

SEPARATE STATEMENT OF COMMISSIONER KEVIN J. MARTIN

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 03-66 et al.

I am pleased to support this item, which initiates a fundamental restructuring of the Instructional Fixed Service (ITFS), Multipoint Distribution Service (MDS), and Multichannel Multipoint Distribution Service (MMDS) band. Based on broad support from the affected parties, this item provides a home for both high-power and low-power operations and thereby gives users greatly enhanced flexibility. This approach preserves the ability of users to provide traditional video and other services, while also significantly promoting broadband deployment. Indeed, I am optimistic that this spectrum will provide a home for last-mile broadband applications, providing competition to telephone and cable lines. In the end, consumers will benefit from innovative services and lower prices.

I am also particularly pleased that we retained the requirement that ITFS spectrum be held by educational institutions and organizations. Encouraging and supporting education is a crucial value to our society, and that value is reflected in the reservation of spectrum for educational users. While some argue that educational spectrum is currently not being used efficiently, we must remember that this spectrum has been under the cloud of major proposed changes for a number of years. Now that a plan for restructuring the band is in place, we should give educators the opportunity and encouragement to move forward.

SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands; WT Docket No. 03-66; et al.

The Communications Act places an obligation on the Commission to encourage the investment in and rapid deployment of new technologies. In today's Order, we hopefully meet that obligation by adopting rules that provide a framework for innovation in the BRS and ITFS services. Our rules accommodate the latest technologies and will facilitate the provision of broadband over wireless, a potential third pipe to the home. It is no secret that the BRS and ITFS services have had a tortured regulatory history. Today we establish a policy regime that will finally bring these services squarely into the 21st century.

The changes we are making today rightly recognize the potential of the 2496-2690 MHz band and take advantage of its capabilities. I am most excited about the future use of the spectrum for broadband services, both commercial and educational. I am a strong believer in the future and the potential of broadband communications. Broadband has the power to transform the lives of individuals and the future of communities. I believe that wireless solutions will play an important role in the future for broadband deployment especially in rural areas. Today's Order recognizes this and implements the means to promote advanced wireless services.

I also am pleased that we reaffirm today that there is a continued role for educators in this spectrum band. For forty years, ITFS providers have used this spectrum for educational programming. It would be wrong to phase out the role of educators at the same time we radically change the structure of the band. Stanford University, my own alma mater, has been licensed to operate as an ITFS system for over thirty years. The university transmits more than 350 programming hours a week. Stanford provides instructional coursework to thousands of graduate students throughout the Bay Area and works closely with many in the high tech community to ensure that their employees have the best education possible.

As we transition to broadband, we need to consider the important work of educators using ITFS like Stanford. And we also need to consider the impact of the transition on those incumbents who are providing video and broadband services in smaller markets throughout the country. I have worked hard to ensure as smooth a transition as possible for ITFS and MDS incumbents, and thank my colleagues for their support in accommodating a number of my revisions. I am also pleased that the Commission has asked for a series of reports that will give details on the progress of the transition process and will comment on some of the lessons learned as we undertake this novel effort.

I am disappointed, though, that the Order moves forward with a transition process that is based on major economic areas (MEAs). The BRS and ITFS services are local services, and I believe that broadband deployment for the foreseeable future will be rolled out on a relatively localized basis. I am concerned that the obligation to transition an entire MEA will make it exceedingly difficult for proponents to effectuate transitions in their particular market.

Finally, I want to thank the Wireless Telecommunications Bureau for all of their time and hard work spent on this monumental item. This Order represents a significant step by the Commission to ensure that providers continue to have opportunities to deploy broadband so that all consumers across America have access to the best communications possible.