

**CONCURRING STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

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

Since 2010, I have been asking the Commission to establish creative approaches to spur greater participation by new entrants and small businesses in the communications industry -- where small businesses have traditionally lacked access to sufficient capital. This is why last month, I was pleased to support the agency's Competitive Bidding Order which adopted new designated entity (DE) rules that should give small businesses more flexibility to secure financing and develop business models to effectively compete in an increasingly consolidated wireless market.

In the case of North Star Wireless and SNR Wireless, I agree that under a proper interpretation of our rules governing the review of applications for DE bidding credits and the relevant agreements, DISH has the power to effectively control these two applicants. I am voting to concur because it is unfortunate this finding will likely mean that the small businesses, who obviously lacked bargaining power when negotiating these agreements, will not be able to retain their licenses. Under the structure of our rules, if the Commission denies a DE application, the only available remedy is for the applicant to pay the amount of the bidding credit. In addition, the limited liability company agreements provide that, if these applicants fail to qualify for bidding credits, DISH will make the required payments to the Commission and the applicants must transfer all of their AWS-3 licenses to DISH. This does not advance the public interest goals of promoting economic opportunity and competition and disseminating licenses among a wide variety of applicants. I hope this case will not have an undue chilling effect on the ability of small businesses to enter into relationships with large investors. And I encourage small businesses to follow the guidance offered in this Order as they negotiate similar agreements in the future.