

Separate Statement of Commissioner Kathleen Q. Abernathy and Commissioner Kevin J. Martin

*In re: Deletion of Noncommercial Reservation of Channel *16, 482-488 MHz, Pittsburgh, Pennsylvania*

We support today's decision to initiate a rulemaking proceeding to determine if dereservation of Channel *16 and application of the proceeds of the sale of WQEX(TV) to noncommercial educational operations of WQED Pittsburgh ("QED") on Channel 13 serves the public interest. We write separately, however, to emphasize the need for a quick and a clear resolution of this matter. We firmly believe that the parties need answers that are both explicit and timely in order to perform in the marketplace. The public also deserves the same level of service.

QED already has suffered greatly due to this agency's initial delay, prior misguided decisions and subsequent reversal. QED first petitioned the Commission in 1996 to dereserve Channel *16, intending to sell the station and use the proceeds to fund its original noncommercial educational television station, Channel *13. The Commission denied the request in part because QED had disclosed that it had negotiated a "back-up" plan: if QED's application were denied, QED would transfer Channel *16 as a noncommercial station to Cornerstone TeleVision, Inc. ("Cornerstone"), a non-profit organization.¹ Accordingly, QED made a new filing, requesting to transfer control of Channel *16. The Commission finally approved the transaction on December 30, 1999—only to simultaneously undermine the deal with ill-conceived, stringent "guidelines" regarding religious programming on noncommercial educational television stations.² Although the FCC reversed course and vacated those guidelines within weeks, it was too late for QED. Faced with uncertainty and vacillation and a four-year delay, QED's potential purchaser backed out.

QED now has returned to the Commission, petitioning for relief from essentially the same predicament in which it found itself five years ago. While we deny QED's request to dereserve Channel *16 on the basis of the record already before us, we do initiate a rulemaking that will enable us to gather a full record and make an informed decision on the merits. This petition presents difficult legal issues, but we believe that a rulemaking proceeding is the appropriate and most prudent course of action at this time. Noncommercial stations play a vital role in our communities and dereservation of such channels raise important public interest concerns. We look forward to working with our colleagues to bring about a clear and prompt resolution of this matter.

¹ *Deletion of Noncommercial Reservation of Channel *16, 482-488 MHz, Pittsburgh, Pennsylvania*, 11 FCC Rcd 11700 (1996).

² *WQED Pittsburgh*, 15 FCC Rcd 202 (1999), *vacated in part*, 15 FCC Rcd 2534 (2000).