

**STATEMENT OF
COMMISSIONER KEVIN J. MARTIN
APPROVING IN PART AND DISSENTING IN PART**

Re: Nationwide Programmatic Agreement Regarding The Section 106 National Historic Preservation Act Review Process, Report and Order, WT Docket No. 03-128

I strongly support the Commission's goals in this item, which streamlines and provides uniformity to the process used to protect historic properties when communications towers are built. Protecting historic properties is vitally important, particularly where the properties have religious or cultural significance to Indian tribes, Native Hawaiian Organizations, or other groups. Providing a streamlined, more uniform process will help that effort and will hopefully reduce burdens on the communications industry. I thus appreciate the work of the Advisory Council on Historic Preservation, the National Conference of State Historic Preservation Officers, industry organizations, Indian tribal groups, FCC staff, and others in bringing this item to fruition.

While I support the goals of this item, I nevertheless respectfully dissent in part, as I believe that aspects of this item exceed the Commission's legal authority. Specifically, the requirements of the National Historic Preservation Act of 1966 at issue here apply only to "Federal or federally assisted undertaking[s]." 16 U.S.C. § 470f. As Commissioner Abernathy argues, antenna siting does not appear to fall within this definition where the FCC issues a blanket license and does not require a permit for construction of antennae. In such instances, the federal government is often not even aware of the location of the antenna. Accordingly, I agree with Commissioner Abernathy that there is insufficient federal involvement in such instances to constitute a federal undertaking.