



United States General Accounting Office
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Office of the General Counsel

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October 19, 2000

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: 24 GHz Service; Licensing and Operation

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "24 GHz Service; Licensing and Operation" (FCC 00-272; WT Docket No. 99-327). We received the rule on September 8, 2000. It was published in the Federal Register as a final rule on October 5, 2000. 65 Fed. Reg. 59350.

The final rule amends and adds regulations governing the licensing and operation of the 24.25-24.45 GHz and 25.05-25.25 GHz bands. In addition, the final rule contains competitive bidding rules to select among mutually exclusive applicants for licenses in these bands.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Stan Czerwinski,
Director, Physical Infrastructure. Mr. Czerwinski can be reached at (202) 512-7631.

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ms. Diane Cornell
Associate Bureau Chief
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"24 GHZ SERVICE; LICENSING AND OPERATION"
(FCC 00-272; WT DOCKET NO. 99-327)

(i) Cost-benefit analysis

The FCC is not required to prepare and did not prepare a cost-benefit analysis for the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed rulemaking and the final rule, respectively.

The analyses comply with the requirements of the Act, including the reasons and legal basis for the rule, a description and number of the small entities affected by the rule, and the steps taken to minimize the impacts on small entities.

In order to reduce the impact, the FCC has, among other steps, permitted flexible partitioning and flexible bidding credits for smaller entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On December 20, 1999, the FCC published a Notice of Proposed Rulemaking in the Federal Register. 64 Fed. Reg. 71088. The FCC received comments from 11 parties in response to the proposed rule and discussed the comments in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review by the Office of Management and Budget. The preamble to the final rule contains the information required by the Act, including an estimate of the annual burden imposed by the collection. The FCC estimates there will be 952 respondents, with an estimated response time of 50 hours. FCC also estimates the total annual burden to be 14,399 hours at a cost of \$952,000.

Statutory authorization for the rule

The final rule is promulgated under the authority of sections 4(i), 257, 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 257, 303, and 309(j).

Executive Order No. 12866

As an independent regulatory agency, the FCC is not subject to the review requirements of the Order.