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December 22, 2004

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

The Honorable Joe Barton
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*

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 “Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services” (FCC 04-166). We received the rule on November 4, 2004. It was published in the Federal Register as a final rule on December 15, 2004. 69 Fed. Reg. 75144.

The final rule modifies certain regulations and policies in order to facilitate the deployment of wireless services in rural areas.

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 Michael Gryszkowiec,

Managing Director, Physical Infrastructure. Mr. Gryszkowiec can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Gregory Vadas
Legal Advisor/Chief, Wireless
Telecommunications Bureau
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
"FACILITATING THE PROVISION OF SPECTRUM-BASED SERVICES TO RURAL
AREAS AND PROMOTING OPPORTUNITIES FOR RURAL TELEPHONE
COMPANIES TO PROVIDE SPECTRUM-BASED SERVICES"
(FCC 04-166)

(i) Cost-benefit analysis

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

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

The FCC prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. The analyses comply with the requirements of the Act. The final analysis sets forth the steps taken to reduce the burden on small entities including various size geographic service areas to encourage participation in spectrum auctions by all size carriers.

(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 found at 5 U.S.C. 553. On November 12, 2003, the FCC published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 64050. In response, the FCC received 30 comments and 20 reply comments, which are discussed in the preamble to the final rule.

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

The final rule contains a modified information collection that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The FCC has submitted the required information to OMB for approval.

Statutory authorization for the rule

The final rule is issued pursuant to the authority found in sections 4(i), 7, 11, 303(c), 303(f), 303(g), 303(r), 309(j), 332, and 706 of the Communications Act of 1934, as amended 47 U.S.C. 154(i), 157, 161, 303(c), 303(f), 303(g), 303(r), 309(j), and 332.

Executive Order No. 12866

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