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B-297954

February 16, 2006

The Honorable Ted Stevens
Chairman
The Honorable Daniel K. Inouye
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: Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*

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 (Commission), entitled "Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures" (WT Docket No. 05-211; FCC 06-4). We received the rule on February 6, 2006. It was published in the Federal Register as a final rule on February 7, 2006. 71 Fed. Reg. 6214.

The final rule modifies the Commission's competitive bidding rules as necessitated by the Commercial Spectrum Enhancement Act.

Enclosed is our assessment of the Commission'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 Commission 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 Patricia Dalton, Managing Director, Physical Infrastructure. Ms. Dalton can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Zenji Nakazawa
Legal Advisor, WTB
Federal Communications Commission

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"IMPLEMENTATION OF THE COMMERCIAL SPECTRUM ENHANCEMENT ACT
AND MODERNIZATION OF THE COMMISSION'S COMPETITIVE BIDDING
RULES AND PROCEDURES"
(WT DOCKET NO. 05-211; FCC 06-4)

(i) Cost-benefit analysis

The Commission 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 Commission prepared both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. Both analyses comply with the requirements of the Act. Among the steps taken to reduce the burden on small entities, the Commission has selected the pro rata option as the best method of equitably apportioning tribal land bidding credits among the largest number of qualified applicants.

(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 Commission 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 July 27, 2005, the Commission published a Notice of Proposed Rulemaking in the Federal Register. 70 Fed. Reg. 43372. In response, the Commission received comments from five parties and the comments are discussed in the preamble to the final rule.

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

The final rule does not contain any new or modified information collections subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority found at 15 U.S.C. 79 et seq. and 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, and 303(r).

Executive Order No. 12866

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