



United States
General Accounting Office
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Office of the General Counsel

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October 2, 1998

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: Installment Payment Financing for
Personal Communications Services (PCS) Licensees

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 "Installment Payment Financing for Personal Communications Services (PCS) Licensees" (WT Docket No. 97-82; FCC 98-176). We received the rule on September 22, 1998. It was published in the Federal Register as a final rule on September 23, 1998. 63 Fed. Reg. 50791.

The final rule sets forth procedures that will govern reauctions of C block spectrum surrendered to the Commission as well as any other C block spectrum available for reauction.

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 Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Federal Communications Commission is Judy England-Joseph,

Director for Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Kathleen Fagan
AMD-Performance Evaluation and
Records Management
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
"INSTALLMENT PAYMENT FINANCING FOR
PERSONAL COMMUNICATIONS SERVICES (PCS) LICENSEES"
(WT Docket No. 97-82; FCC 98-176)

(i) Cost-benefit analysis

The FCC, in its report to our Office, states that it 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 both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed rule and the final rule, respectively. The final analysis is attached to the final rule and complies with the requirements of the Act. It contains the reason for the rule and the legal basis for it; the number of small entities affected by the rule; the recordkeeping, reporting and other compliance requirements; and the steps taken to minimize the burden on small entities.

To minimize the burden on small entities, the FCC will allow "former defaulters" to participate in the reauction if they meet certain conditions. Small business applicants will be given a 15-percent bidding credit and very small business applicants a 25-percent bidding credit.

(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 title II of 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 pursuant to the notice and comment procedures contained in 5 U.S.C. § 553. On October 24, 1997, the FCC published a Notice of Proposed

Rulemaking seeking comments on proposed changes to the C block rules to govern the reauction of surrendered spectrum.

The FCC received comments from 19 parties and responds to them in the preamble to final rule.

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

The final rule contains a modified information collection which has been submitted for emergency approval to the Office of Management and Budget under the Paperwork Reduction Act.

The preamble to the final rule contains the information required by the Act, including the reason for the collection, the estimated number of respondents, and the estimated annual burden hours.

The final rule requires each applicant to submit a statement indicating whether the applicant has ever been in default on a FCC licenses or has ever been delinquent on an non-tax debt owed to any federal agency. It is estimated that there will be 750 respondents and the collection will take .25 hours to respond for a total estimated annual burden of 187.5 hours.

Statutory authorization for the rule

The final rule was promulgated pursuant to the authority of sections 4(i), 5(b), 5(c)(1), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(b), 156(c)(1), 303(r), and 309(j).

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.