

requirement might affect the deployment of wireless services in non-rural areas.

32. We also seek comment on whether we should adopt geographic-based construction requirements for those private and commercial terrestrial wireless services that are licensed on a geographic area basis and that currently do not have a geographic area coverage option. A geographic benchmark would provide an alternative for licensees who do not intend to focus construction efforts on population centers. Further, like population-based benchmarks, geographic benchmarks would provide increased certainty for licensees, in comparison to the more flexible substantial service standard. Commenters supporting geographic-based construction requirements should identify the applicable radio service(s) and recommend benchmark levels, or percentages, for the relevant market sizes. We seek comment on whether the benchmark levels may be reduced where the geographic areas in question are rural areas.

33. In addition to proposing the adoption of a substantial service benchmark for all wireless services that are licensed by geographic area, we propose the adoption of a substantial service "safe harbor" based on provision of rural service. We propose two different rural safe harbors, depending on whether a licensee is providing mobile or fixed wireless service. With respect to mobile wireless services, we propose that a licensee will be deemed to have met the substantial service requirement if it provides coverage, through construction or lease, to at least 75 percent of the geographic area of at least 20 percent of the "rural" counties within its licensed area. We propose that "rural" counties be defined as those counties with a population density less than or equal to 100 persons per square mile. For example, if a licensee's market contains five counties (all having a population density of 100 persons per square mile or fewer), the licensee could meet the safe harbor by providing coverage to 75 percent of the geography in one of those five counties. With respect to fixed wireless services, we propose to define the substantial service requirement as met if a licensee, through construction or lease, constructs at least one end of a permanent link in at least 20 percent of the "rural" counties within its licensed area (using the same "rural" county definition). For example, if a licensee's market contains five counties (all having a population density of 100 persons per square mile or fewer), the licensee could meet the safe harbor by constructing one

end of a permanent link in one of those five counties. Our proposal to base the safe harbor on a population density of 100 persons per square mile or fewer is derived from our finding in the *Eighth Competition Report*, which indicates that counties with population densities of 100 persons per square mile or less "have an average of 3.3 mobile competitors, while the more densely populated counties have an average of 5.6 competitors." We note that these proposed "safe harbors" are intended to provide licensees with a measure of certainty in determining whether they are providing substantial service, but are not intended to be the only means of demonstrating substantial service.

34. We seek comment on whether we should adopt rural safe harbors and, if so, whether it is advisable to adopt the specific safe harbors described above. We note that although the analyses of competition in counties with population densities of 100 persons per square mile or fewer were based upon data pertaining to the mobile telephony industry (dominated by cellular, broadband PCS, and digital SMR providers), we believe that 100 persons per square mile nevertheless provides a usable and reasonable proxy for "rural" for the purpose of establishing a rural substantial service safe harbor. We seek comment on this proposed population-density based standard. In particular, we seek comment on whether this safe harbor is suitably flexible to accommodate variances in service areas and how we might modify our safe harbors to accommodate various geographic service areas and uneven population distributions. In the event commenters disagree with our proposed safe harbors, we ask that commenters suggest examples of alternative rural safe harbors, in light of their practical experience and based upon their own service-specific demands and requirements. Should we adopt a rural safe harbor that applies to all services, or are services sufficiently specialized that we should adopt service-specific safe harbors?

2. Renewal License Terms

a. Background

35. At present, we require compliance with our construction requirements during the initial license term. Depending upon the particular service, we require licensees to satisfy minimum coverage benchmarks at an interim period prior to the end of the initial license term, and/or at the conclusion of the initial license term. Licensees obtain authorizations to use designated spectrum for a specific period of time

(typically a term of ten years), and may request renewal of their authorizations prior to the expiration of their license terms. Once a licensee renews its license, however, no additional performance requirements are imposed in subsequent license terms.

b. Discussion

36. We seek comment on whether we should require geographic area licensees to satisfy performance requirements during their renewal license terms (we refer to license terms subsequent to the initial license term as "renewal terms"). This question of whether licensees should satisfy additional performance requirements during renewal terms is particularly relevant as licensees approach the end of their initial license terms or enter into their renewal terms. We ask whether additional performance requirements are likely to increase the provision of wireless services to rural areas.

37. With respect to commercial mobile wireless services, we have seen the prompt use of at least a portion of the spectrum and provision of at least a minimum level of service. While this data appears to suggest that our construction requirements have facilitated competition and have promoted the deployment of wireless services, it is nevertheless difficult to identify whether wireless deployment is the result of our minimum coverage requirements or the operation of market forces. We ask commenters whether market forces, and not build out requirements, should govern any additional construction during renewal terms. Will the imposition of additional performance requirements during renewal terms likely result in uneconomic construction?

38. In the event that commenters believe additional construction requirements are appropriate and necessary to promote the continued deployment of wireless services to consumers in rural areas, we ask what form these construction requirements should take. For example, should we adopt a population- or geography-based benchmark? Should we adopt a modified version of substantial service and require the provision of additional coverage beyond what is sufficient to satisfy "substantial service" during the initial license term (in effect, a "substantial service plus" requirement)? Should we require compliance with these benchmarks at the expiration of the renewal term, or at some interim period prior to the end of the renewal term? Furthermore, given our objective of promoting service to rural consumers, we ask whether renewal term