

loans. For fiscal year 2003, the total authorized loan level for these four programs is \$670 million.

62. The broadband loan program is technology neutral; requires provision of high-quality data transmission service and may provide voice, graphics, and video; and must enable a subscriber to transmit and receive at a rate of no less than 200 kilobits per second. Similar to the infrastructure loan program, the broadband loan program finances the construction or acquisition of new facilities and facility improvements. RUS makes broadband loans available to any legally organized entity that has sufficient authority to enter into a contract with RUS and carry out the purposes of the loan, so long as the entity is providing or proposes to provide service to an area that meets the following criteria: (1) There are no more than 20,000 inhabitants, and (2) the service area does not fall within a standard metropolitan statistical area. For fiscal year 2003, RUS has \$80 million for 4 Percent loans, \$80 million for Guaranteed loans, and \$1.3 billion for Treasury Rate loans. In fiscal year 2004, the total loan level is anticipated to be \$418 million.

63. The Commission's Wireless Telecommunications Bureau (WTB) has partnered with RUS to sponsor the "Federal Rural Wireless Outreach Initiative" (FCC/RUS Outreach Partnership). The FCC/RUS Outreach Partnership is designed to exchange program and regulatory information about rural development and wireless telecommunications access in rural areas. The four key goals of the FCC/RUS Outreach Partnership are to: (1) Exchange information about products and services each agency offers to promote the expansion of wireless telecommunications services in rural America; (2) harmonize rules, regulations and processes whenever possible to maximize the benefits for rural America; (3) educate partners and other agencies about Commission, WTB and USDA/RUS offerings; and (4) expand the FCC/WTB and USDA/RUS partnership, to the extent that it is mutually beneficial, to other agencies and partners.

(ii) Discussion

64. We seek methods to help facilitate access to capital in rural areas in order to increase the ability of wireless telecommunications providers to offer service in rural areas. An important part of accomplishing this goal is through the promotion of federal government financing programs. We seek comment on how the Commission can assist in making the RUS loan programs more

effective. We seek comment on whether there are any Commission regulations or policies that should be reexamined or modified to facilitate participation in the RUS programs by wireless licensees and service providers. In addition, we ask for comment on whether the FCC/RUS Outreach Partnership could be expanded to include other federal, state, or local government programs and, if so, which programs. We further seek comment on whether there is a role for non-governmental entities in the FCC/RUS Outreach Partnership and how such entities might be able to participate. We also ask for suggestions regarding effective outreach programs and the groups that should be targeted. In addition, we ask for submission of lists of associations, government agencies, or other interested parties that would want to join in this FCC/RUS Outreach Partnership or receive future information regarding this program.

b. Security Interests

(i) Background

65. As a historical matter, the Commission has not permitted third parties to take a security interest in spectrum licenses. At the same time, the Commission's legal and policy bases for various restrictions on transactions involving licenses have evolved over the years. For instance, at one time, the policy of prohibiting the sale of bare licenses, as well as the policies against security and reversionary interests in licenses, were based on the Commission's interpretation of the Communications Act. In various decisions, the Commission modified its views on the statutory basis for these policies in the context of cellular and other wireless licenses. For all spectrum-based services, the Commission has expressly permitted licensees to grant security interests in the stock of the licensee, in the physical assets used in connection with its licensed spectrum, and in the proceeds from operations associated with the licensed spectrum. The Commission and the courts have likewise determined that security interests in the proceeds of the sale of a license do not violate Commission policy. In connection with the auction installment payment program, the Commission itself has taken an exclusive security interest in licenses subject to installment payments and a senior security interest in the proceeds of a sale of an auctioned license. In its *Secondary Markets Policy Statement*, the Commission considered ways in which licensees may be able to maximize their efficient use of spectrum by leveraging "the value of their

retained spectrum usage rights to increase access to capital." See *Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, WT Docket No. 00-230, *Policy Statement*, 65 FR 81475 (December 26, 2000) (*Secondary Markets Policy Statement*). Specifically, the Commission said "we plan to evaluate our policies prohibiting security and reversionary interests in licenses."

(ii) Discussion

66. Pursuant to our stated intent in the *Secondary Markets Policy Statement*, we initiate a discussion regarding whether we should permit RUS to obtain security interests in the spectrum licenses of their borrowers. We seek comment on whether, and to what extent, licensees in rural areas would benefit from the opportunity to pledge their licenses to RUS as collateral as a means of overcoming their difficulties in raising capital.

67. As an initial matter, we limit the scope of our inquiry to commercial and private terrestrial wireless services. We further limit our inquiry concerning security interests to licenses and licensees in rural and underserved areas that are seeking federal financial assistance through RUS loan programs. We believe that such licensees will benefit most in light of their apparently greater need for lower-cost capital and the new opportunities presented by RUS loans discussed below. Also with regard to the scope of our inquiry, we note that we do not intend to implement any policy change that would, in the case of a licensee operating under the installment payment program, compromise the Commission's exclusive or senior secured position with respect to the license and the proceeds of the sale of such license. Nevertheless, we seek comment on whether permitting RUS to obtain security interests in the spectrum licenses of their borrowers, as described below, could have unintended effects on installment licensees and the Commission's rights under these arrangements.

68. Our primary goal is to determine whether further relaxation of the security interest restrictions—by allowing at least a modified form of collateralization of FCC licenses by licensees obtaining RUS funds—could increase opportunities to raise capital or avoid financial collapse. We therefore seek comment on the extent to which a licensee's ability to grant RUS a security interest directly in an FCC license would, in fact, create new financing opportunities and facilitate the