

SUMMARY: This document seeks comment on the effectiveness of the Commission's current regulatory tools in facilitating the delivery of spectrum-based services to rural areas. Specifically, we ask whether and how the Commission could modify its policies to promote the further development and deployment of such services to rural areas. In addition, we request comment on the extent to which rural telephone companies ("rural telcos") and other entities seeking to serve rural areas have opportunities to acquire spectrum and provide spectrum-based services. This document fulfills a Commission commitment to develop a record on these matters to determine the extent to which the Commission has achieved these statutory goals.

DATES: Comments are due on or before February 3, 2003 and reply comments are due on or before February 18, 2003.

ADDRESSES: All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties also should send four (4) paper copies of their filings to Robert Krinsky, Federal Communications Commission, Room 4-B551, 445 12th Street, SW., Washington, DC 20554. See "Supplementary Information" for comment and reply comment filing instructions.

FOR FURTHER INFORMATION CONTACT: Robert Krinsky at (202) 418-0660.

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Inquiry* released on December 20, 2002. The complete text of the *Notice of Inquiry* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. The *Notice of Inquiry* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com.

I. Introduction

1. The *Notice of Inquiry* seeks comment on the effectiveness of our current regulatory tools in facilitating the delivery of spectrum-based services to rural areas. Specifically, we ask whether and how the Commission could modify its policies to promote the further development and deployment of such services to rural areas, pursuant to section 309(j) of the Communications Act of 1934, as amended ("Communications Act"). In addition,

we request comment on the extent to which rural telephone companies ("rural telcos") and other entities seeking to serve rural areas have opportunities to acquire spectrum and provide spectrum-based services, pursuant to sections 309(j)(3) and 309(j)(4) of the Communications Act. The *Notice of Inquiry* fulfills a Commission commitment to develop a record on these matters to determine the extent to which the Commission has achieved these statutory goals. Based on the record developed in this proceeding, we will determine whether it would be appropriate to revise existing policies or adopt new policies to promote more extensive provision of spectrum-based services to rural areas and the acquisition of spectrum by rural telcos. While satellite services may, in the future, play a critical role in bringing telecommunications services to rural America, the *Notice of Inquiry* addresses issues related only to the provision of terrestrial wireless service to rural areas, not the provision of general telecommunications services to rural areas.

II. Background

2. The Omnibus Budget Reconciliation Act of 1993 added section 309(j) to the Communications Act, authorizing, but not requiring, the Commission to award licenses for use of the electromagnetic spectrum through competitive bidding where mutually exclusive applications are accepted for filing. In 1997, Congress expanded the Commission's auction authority by requiring it to award mutually exclusive license applications for initial applications or construction permits by competitive bidding unless certain specific exemptions apply. Section 309(j) requires the Commission to promote various objectives in designing a system of competitive bidding. A number of those objectives focus on the provision of spectrum-based services to rural areas, and three provisions mention providing the opportunity to rural telcos to acquire spectrum and provide spectrum-based services. For example, section 309(j)(3)(A) requires the Commission to encourage the development and rapid deployment of new technologies, products, and services for the benefit of the public, "including those residing in rural areas." Section 309(j)(3)(B) directs the Commission to disseminate spectrum licenses among a wide variety of applicants, including "rural telephone companies." Section 309(j)(4)(D) requires the Commission to ensure that rural telcos are given the opportunity to acquire spectrum and provide spectrum-

based services. In addition to the rural service objectives mandated by section 309(j), Congress directed the Commission to pursue other broader public interest goals in designing a system of competitive bidding. Specifically, section 309(j)(3) requires the Commission to promote efficient and intensive use of the spectrum, encourage economic opportunity and competition, and recover for the public a portion of the value of the public spectrum.

3. In an effort to fulfill the rural service objectives set forth in section 309(j), the Commission has adopted a number of policies intended, among other things, to encourage the provision of spectrum-based services to rural areas and the participation of rural telcos in the competitive bidding for spectrum licenses. Specifically, these policies include: (i) The availability of small business bidding credits; (ii) the designation of various sizes of geographic service areas for spectrum licenses; (iii) the opportunity to obtain licenses through service area partitioning and spectrum disaggregation arrangements with existing licensees; and (iv) the adoption of construction benchmark performance requirements. In addition, apart from its obligation under section 309(j), the Commission has expressed support for the provision of telecommunications services to tribal lands. The Commission also established the Rural Radiotelephone Service, which may operate in the paired 152/158 and 454/459 MHz bands, and Basic Exchange Telephone Radio Systems ("BETRS"), which may operate in those same bands as well as on 10 channel blocks in the 816-820/861-865 MHz bands, primarily to facilitate the provision of basic telephone service to remote and sparsely populated areas where wireline service is not feasible.

4. In 1994, the Commission adopted small business bidding credits to encourage broad participation in spectrum auctions. A bidding credit is a payment discount on a winning bid determined at the conclusion of the bidding process. Small business bidding credits are available to businesses — including rural telcos — whose gross revenues do not exceed a specified threshold. These bidding credits are intended to encourage participation in the competitive bidding process by entities that otherwise might have difficulty gaining access to capital. Through the use of small business bidding credits, the Commission has sought to promote the participation of small businesses, rural telcos, and women- and minority-owned firms