

(collectively referred to as “designated entities”), thereby addressing Congress’s mandate to ensure diversity in the ownership of spectrum licenses. The Commission determines on a service-specific basis whether bidding credits will be offered, the eligibility criteria for receiving a bidding credit, and the amount of the bidding credit.

5. However, in the *Part 1 Fifth Report and Order*, 65 FR 52323 (August 29, 2000), the Commission declined to adopt a bidding credit specifically for rural telcos. Rather, the Commission determined to continue to make small business bidding credits available to entities, including rural telcos that meet the requisite revenue criteria. In 2000, the Commission also began offering a tribal land bidding credit, the size of which is determined by the amount of tribal land area reached by the service provider. All telcos, including rural operators that fulfill the requisite criteria may obtain a tribal land bidding credit.

6. Recent statistics indicate that rural telcos have actively participated in spectrum auctions and have had some success in winning licenses. A significant portion of rural telcos that have participated in spectrum auctions have received small business bidding credits. For instance, an examination of the 29 auctions completed by the Commission as of September 18, 2002, that offered small business bidding credits, reveals that 84 percent of the qualified bidders that identified themselves as rural telcos and 79 percent of all qualified bidders were eligible to receive a small business bidding credit. In the Commission’s most recent auction for licenses in the lower 700 MHz Band, 89 percent of qualified bidders that identified themselves as rural telcos won licenses. In addition, 77 percent of all winning rural telco bidders in that auction received a bidding credit.

7. In addition to bidding credits, another way in which the Commission has sought to enhance rural telco participation in spectrum auctions is by adopting service areas of varying sizes. Although in many services we offer licenses that cover geographic areas of only one size, in a number of services, we license areas of varying sizes, ranging from small to large, in order to attract a diverse group of prospective bidders. Larger entities, for instance, may seek to acquire licenses that cover whole regions of the country, while other entities, such as rural telcos, may be interested in obtaining licenses to serve only particular rural areas. After seeking comment, the Commission has varied the size of the geographic service

area depending upon the nature of the service provided and the likely users. In services for which we have adopted one size of license area, such areas are usually larger than Rural Service Areas (“RSAs”). In determining the appropriate size of a license area, we seek to balance two competing concerns. On one hand, we seek to adopt service areas of a size that results in efficient and intensive use of spectrum resources. On the other hand, we seek to adopt licensing areas that will permit the dissemination of licenses among a wide variety of applicants. The smallest of these geographic service areas are RSAs and Metropolitan Statistical Areas (“MSAs”), of which there are 734 licenses comprising the United States and its territories. Adopting service rules that provide for licenses with small geographic areas allows bidders to target the precise areas they are interested in serving, rather than having to compete for expansive geographic areas that encompass smaller, sought-after areas. The Commission has also licensed spectrum according to Economic Area Groupings (“EAGs”), which make up six licensing areas for the entire country. Some terrestrial wireless services, such as narrowband Personal Communications Services (“PCS”) and 1670–1675 MHz, have geographic service areas that have nationwide coverage. Other geographic service areas fall along a range of intermediate sizes between RSAs and nationwide service areas, e.g., BTAs, Economic Areas (“EAs”), and Major Economic Areas (“MEAs”).

8. The Commission has also adopted partitioning and disaggregation policies to enable service providers, including rural telcos, to acquire spectrum without bidding on licenses that may not be suited to their particular needs. “Partitioning” is the assignment by a licensee of geographic portions of the license. “Disaggregation” is the assignment by a licensee of discrete portions or “blocks” of spectrum of the license. Where permitted by our rules, licensees may partition or disaggregate any of their licensed spectrum to other entities. Obtaining spectrum through partitioning or disaggregation, rather than competitive bidding, is often appealing to service providers with limited financial resources, specific service area needs, or small bandwidth requirements because licenses offered at auction may be more costly, cover larger geographic areas, and have greater bandwidth than desired. For instance, the geographic service area of a license made available at auction may include

both urban and rural areas. A rural telco interested in serving only a rural area may seek to obtain spectrum post-auction through partitioning or disaggregation, rather than bid for a license covering an area that it does not intend to serve. In this manner, our partitioning and disaggregation policies may help service providers, such as rural telcos, to obtain spectrum tailored to their specialized service area and financial needs. The Commission’s analysis of applications for geographic partition and spectrum disaggregation reveals that 13.5 percent of all assignees have voluntarily identified themselves as rural telcos. Our analysis also demonstrates that 13.8 percent of all assignees (including rural and non-rural telcos) claim they are, or will be, serving rural areas.

9. The Commission has sought to enhance service to rural areas by requiring winning bidders of spectrum licensees to meet certain performance requirements. Section 309(j)(4)(B) of the Act specifically directs the Commission to prescribe such “performance requirements” to ensure prompt delivery of service to rural areas, to prevent stockpiling of spectrum, and to promote investment in and rapid deployment of new technologies and services. Performance requirements include construction benchmarks. Construction benchmarks typically require licensees to serve either a specific portion of the geographic service area or a specific percentage of the population in the geographic service area by a certain period of time. In some instances, the Commission has adopted a “substantial service” requirement as its construction requirement. Under this approach, licensees are required to provide “substantial service” to either a geographic service area or to the population within the geographic service area within a specific period of time. The Commission has defined “substantial service” as “service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal.” The “substantial service” requirement was established to assess meaningful service through a measure not based on population or geographic metrics. Substantial service was established for circumstances where the Commission has determined that more flexible construction requirements rather than fixed benchmarks would more likely result in the efficient use of spectrum and the provision of service to rural, remote, and insular areas. The Commission may consider such factors as whether a licensee’s operations serve