

103D CONGRESS  
1ST SESSION

# S. 335

To require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

Mr. INOUYE (for himself, Mr. STEVENS, Mr. DANFORTH, Mr. KERRY, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2       tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Emerging Tele-  
5       communications Technologies Act of 1993”.

6 **SEC. 2. FINDINGS.**

7       The Congress finds that—

6 (2) many of such frequencies are underutilized  
7 by Federal Government licensees;

11 (4) additional frequencies are assigned for serv-  
12 ices that could be obtained more efficiently from  
13 commercial carriers or other vendors;

16 (A) impede the development and commercialization of new telecommunications products  
17 and services;

19 (B) limit the capacity and efficiency of the  
20 telecommunications systems in the United  
21 States;

22 (C) prevent some State and local police,  
23 fire, and emergency services from obtaining ur-  
24 gently needed radio channels; and

1 (D) adversely affect the productive capac-  
2 ity and international competitiveness of the  
3 United States economy;

4 (6) a reassignment of these frequencies can  
5 produce significant economic returns;

10 (8) current spectrum assignment procedures—  
11 comparative hearings and lotteries—can be expen-  
12 sive and time consuming, can strain the limited re-  
13 sources of the Federal Communications Commission,  
14 and can result in an inefficient distribution of spec-  
15 trum and an unjustified windfall to speculators;

23 (10) competitive bidding should be structured  
24 to—

(A) facilitate introduction of new spectrum-based technologies and services and entry of new companies into the telecommunications market;

(B) recognize the legitimate needs of rural telephone companies in providing spectrum-based, common carrier services in rural markets in which they provide telephone exchange service by wire;

(C) give appropriate consideration to small businesses that want to participate in the competitive bidding process;

(D) recognize the need to make reasonably priced mobile communications services available to businesses in rural areas; and

(E) otherwise further the public interest;

(11) competitive bidding should apply only to the granting of new spectrum licenses and should not—

(A) disrupt the operations of existing spectrum licensees;

(B) alter existing spectrum allocation procedures:

(C) apply to certain services governed by public interest regulations;

(D) diminish the existing authority of the Federal Communications Commission to regulate or reclaim spectrum licenses; or

(E) grant any right to a spectrum licensee different from the rights awarded to licensees who obtain their license through assignment methods other than competitive bidding;

(12) in appropriating revenues received from competitive bidding, priority should be given to—

(A) funding spectrum management, plan-

ning, monitoring, and enforcement and other activities of the Federal Communications Commission, the National Telecommunications and Information Administration, and other Federal agencies aimed at increasing the efficiency and effectiveness of spectrum use, facilitating the introduction of new spectrum-based technologies and services, and enhancing the international competitiveness of the United States and the ability of American companies to enter new markets; and

(B) extending the reach of public radio and television to underserved areas of the United States and underserved groups of Americans; and

## 5 SEC. 3. NATIONAL SPECTRUM PLANNING.

6 (a) PLANNING ACTIVITIES.—The Assistant Secretary  
7 of Commerce for Communications and Information and  
8 the Chairman of the Commission shall meet, at least bim-  
9 nually, to conduct joint spectrum planning with respect  
10 to the following issues:

14 (2) the spectrum allocation actions necessary to  
15 accommodate those uses; and

21 (b) REPORTS.—The Assistant Secretary of Com-  
22 merce for Communications and Information and the  
23 Chairman of the Commission shall submit a joint annual  
24 report to the Committee on Energy and Commerce of the  
25 House of Representatives, the Committee on Commerce,

1 Science, and Transportation of the Senate, the Secretary,  
2 and the Commission on the joint spectrum planning activi-  
3 ties conducted under subsection (a) and recommendations  
4 for action developed pursuant to such activities. The first  
5 annual report submitted after the date of the report by  
6 the advisory committee under section 4(d)(4) shall include  
7 an analysis of and response to that committee report.

8 **SEC. 4. RECOMMENDATIONS FOR REALLOCATION OF CER-  
9 TAIN FREQUENCIES.**

10 (a) IDENTIFICATION REQUIRED.—For purposes of  
11 reallocation, the Secretary shall identify frequencies  
12 that—

13 (1) are allocated on a primary basis for Federal  
14 Government use;

15 (2) are not required for the present or identifi-  
16 able future needs of the Federal Government;

17 (3) can feasibly be made available, as of the  
18 date of such identification or at any time during the  
19 next 15 years, for use under the Act (other than for  
20 Federal Government stations under section 305  
21 thereof) without resulting in costs to the Federal  
22 Government, or loss of services or benefits to the  
23 public, that are excessive in relation to the benefits  
24 that may be obtained by non-Federal licensees; and

1 (4) are most likely to have the greatest potential  
2 for productive uses and public benefits under the  
3 Act if allocated for commercial uses.

4 (b) MINIMUM AMOUNT OF SPECTRUM REC-  
5 OMMENDED.—

23 (A) such mixed-use frequencies and fre-  
24 quency bands may not count toward more than

1       one-half of the 200 megahertz minimum re-  
2       quired by paragraph (1);

3               (B) such mixed-use frequencies and fre-  
4       quency bands may not be so counted unless the  
5       assignments of the frequencies to Federal Gov-  
6       ernment stations under section 305 of the Act  
7       (47 U.S.C. 305) are limited by geographic  
8       areas, by time, or by other means so as to guar-  
9       antee that the potential use to be made by such  
10      Federal Government stations is substantially  
11      less (as measured by geographic area, time, or  
12      otherwise) than the potential use to be made by  
13      non-Federal stations; and

14               (C) such operational sharing shall be sub-  
15       ject to coordination procedures that the Com-  
16       mission shall establish and implement to ensure  
17       against harmful interference.

18       (c) CONSIDERATION OF CRITERIA FOR IDENTIFICA-  
19       TION.—

20               (1) NEEDS OF THE FEDERAL GOVERNMENT.—  
21       In determining whether a frequency meets the cri-  
22       teria specified in subsection (a)(2), the Secretary  
23       shall—

24               (A) consider whether the frequency is used  
25       to provide a communications service that is or

1       could be available from a commercial carrier or  
2       other vendor;

3           (B) seek to promote—

4               (i) the maximum practicable reliance  
5       on commercially available substitutes;

6               (ii) the sharing of frequencies (as per-  
7       mitted under subsection (b)(2));

8               (iii) the development and use of new  
9       communications technologies; and

10               (iv) the use of nonradiating commu-  
11       nications systems where practicable; and

12           (C) seek to avoid—

13               (i) serious degradation of Federal  
14       Government services and operations;

15               (ii) excessive costs to the Federal Gov-  
16       ernment and users of Federal Government  
17       services; and

18               (iii) excessive disruption of existing  
19       use of Federal Government frequencies by  
20       amateur radio licensees.

21           (2) FEASIBILITY OF USE.—In determining  
22       whether a frequency meets the criteria specified in  
23       subsection (a)(3), the Secretary shall—

24               (A) assume that the frequency will be as-  
25       signed by the Commission under section 303 of

1                   the Act (47 U.S.C. 303) over the course of not  
2                   less than 15 years;

3 (B) assume reasonable rates of scientific  
4 progress and growth of demand for tele-  
5 communications services;

6 (C) determine the extent to which the  
7 reallocation or reassignment will relieve actual  
8 or potential scarcity of frequencies available for  
9 licensing by the Commission for non-Federal  
10 use;

11 (D) seek to include frequencies which can  
12 be used to stimulate the development of new  
13 technologies; and

14 (E) consider the immediate and recurring  
15 costs to reestablish services displaced by the  
16 reallocation of spectrum.

20 (A) the extent to which equipment is avail-  
21 able that is capable of utilizing the band;

22 (B) the proximity of frequencies that are  
23 already assigned for commercial or other non-  
24 Federal use:

(C) the extent to which commercial users can share the frequency with amateur radio licensees; and

(D) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) OTHER USES.—

(A) APPLICABILITY OF CRITERIA.—The criteria specified by subsection (a) shall be deemed not to be met for any purpose under this Act with regard to any frequency assignment to, or any frequency assignment used by, a Federal power agency for the purpose of withdrawing that assignment.

(B) MIXED USE ELIGIBILITY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas, but in those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall not cause harmful interference to the affected Federal power agency or

1                   adversely affect the reliability of its power sys-  
2                   tem.

3                   (C) DEFINITION.—As used in this para-  
4                   graph, the term “Federal power agency” means  
5                   the Tennessee Valley Authority, the Bonneville  
6                   Power Administration, the Western Area Power  
7                   Administration, or the Southwestern Power Ad-  
8                   ministration.

9                   (d) PROCEDURE FOR IDENTIFICATION OF  
10                  REALLOCABLE BANDS OF FREQUENCIES.—

11                  (1) SUBMISSION OF REPORTS TO THE PRESI-  
12                  DENT AND CONGRESS.—

13                  (A) REPORT IDENTIFYING 30 MEGAHERTZ  
14                  FOR IMMEDIATE REALLOCATION.—Within 6  
15                  months after the date of enactment of this Act,  
16                  the Secretary shall prepare and submit to the  
17                  President and the Congress a report that rec-  
18                  ommends for immediate reallocation 30 mega-  
19                  hertz of frequencies identified under subsection  
20                  (a). None of the frequencies covered by such re-  
21                  port may be allocated for mixed use as de-  
22                  scribed in subsection (b)(2). Not less than one-  
23                  half of such frequencies shall be located below  
24                  3 gigahertz.

(B) PRELIMINARY REPORT ON OTHER  
REALLOCABLE FREQUENCIES.—Within 12 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a preliminary report that recommends for reallocation at least 170 megahertz of frequencies identified under subsection (a), other than those recommended for immediate reallocation under subparagraph (A).

11 (C) FINAL REPORT ON OTHER  
12 REALLOCABLE FREQUENCIES.—Within 24  
13 months after the date of enactment of this Act,  
14 the Secretary shall prepare and submit to the  
15 President and the Congress a final report that  
16 recommends the reallocation of at least 170  
17 megahertz of frequencies as described in sub-  
18 paragraph (B). Not less than one-half of such  
19 frequencies shall be located below 3 gigahertz.

20 (D) LIMITATION ON REALLOCATION.—  
21 None of the frequencies recommended for  
22 reallocation in the reports required by this  
23 paragraph shall have been recommended, prior  
24 to the date of enactment of this Act, for

1           reallocation to non-Federal use by international  
2           agreement.

3           (2) CONVENING OF ADVISORY COMMITTEE.—  
4           Not later than the date the Secretary submits the  
5           report required by paragraph (1)(B), the Secretary  
6           shall convene an advisory committee to—

7                   (A) review the frequencies identified in  
8                   such report;

9                   (B) advise the Secretary with respect to (i)  
10                  the frequencies which should be included in the  
11                  final report required by paragraph (1)(C), and  
12                  (ii) the effective dates which should be estab-  
13                  lished under subsection (e) with respect to such  
14                  frequencies;

15                  (C) receive public comment on the Sec-  
16                  retary's report and on the final report; and

17                  (D) prepare and submit the report re-  
18                  quired by paragraph (4).

19           The advisory committee shall meet at least monthly  
20           until each of the actions required by section 5(a)  
21           have taken place.

22           (3) COMPOSITION OF COMMITTEE; CHAIR-  
23           MAN.—The advisory committee shall include—

24                   (A) the Chairman of the Commission and  
25                   the Assistant Secretary of Commerce for Com-

1           communications and Information, and one other  
2           representative of the Federal Government as  
3           designated by the Secretary; and

4 (B) representatives of—

5 (i) United States manufacturers of  
6 spectrum-dependent telecommunications  
7 equipment;

8 (ii) commercial carriers;

14 (iv) other interested members of the  
15 public who are knowledgeable about the  
16 uses of the electromagnetic spectrum.

17 A majority of the members of the committee shall be  
18 members described in subparagraph (B), and one of  
19 such members shall be designated as chairman by  
20 the Secretary.

1 the House of Representatives, and the Committee on  
2 Commerce, Science and Transportation of the Sen-  
3 ate a report containing such recommendations as the  
4 advisory committee considers appropriate for the re-  
5 form of the process of allocating the electromagnetic  
6 spectrum between Federal and non-Federal use, and  
7 any dissenting views thereon.

8 (e) TIMETABLE FOR REALLOCATION AND LIMITA-  
9 TION.—The Secretary shall, as part of the reports re-  
10 quired by subparagraphs (B) and (C) of subsection (d)(1),  
11 include a timetable that recommends dates by which the  
12 President shall withdraw or limit assignments of the fre-  
13 quencies specified in the reports. The recommended effec-  
14 tive dates shall—

15 (1) permit the earliest possible reallocation of  
16 frequencies, taking into account the requirements of  
17 section 6;

18 (2) be based on the useful remaining life of  
19 equipment that has been purchased or contracted for  
20 to operate on identified frequencies;

21 (3) be based on the need to coordinate fre-  
22 quency use with other nations; and

23 (4) take into account the relationship between  
24 the costs to the Federal Government of changing to  
25 different frequencies and the benefits that may be

1 obtained from commercial and other non-Federal  
2 uses of the reassigned frequencies.

3 SEC. 5. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOV-  
4 ERNMENT STATIONS.

5 (a) IN GENERAL.—The President shall—

6 (1) within 3 months after receipt of the report  
7 required by section 4(d)(1)(A), withdraw or limit the  
8 assignment to a Federal Government station of any  
9 frequency in the 30 megahertz of frequencies rec-  
10 ommended by that report for immediate reallocation;

## 24 (b) EXCEPTIONS.—

4 (A) may substitute an alternative frequency for the frequency that is subject to such  
5 determination and withdraw (or limit) the assignment of that alternative frequency in the  
6 manner required by subsection (a); and  
7  
8

15 (2) GROUNDS FOR SUBSTITUTION.—Each of  
16 the following subparagraphs describes a cir-  
17 cumstance referred to in paragraph (1):

18 (A) The reassignment would seriously jeop-  
19 ardize the national defense interests of the  
20 United States.

21 (B) The frequency proposed for reassign-  
22 ment is uniquely suited to meeting important  
23 governmental needs.

24 (C) The reassignment would seriously jeop-  
25 ardize public health or safety.

6 (E) The reassignment will disrupt the ex-  
7 isting use of a Federal Government band of fre-  
8 quencies by amateur radio licensees.

22 (A) withdraw or limit the assignment to  
23 Federal Government stations on a later date  
24 that is consistent with such plan, except that  
25 the President shall notify each Committee spec-

1               ified in paragraph (1)(B) and the Commission  
2               of the reason that withdrawal or limitation at  
3               a later date is required; or

(B) substitute alternative frequencies pursuant to this subsection.

6 (c) LIMITATION ON DELEGATION.—Notwithstanding  
7 any other provision of law, the authorities and duties es-  
8 tablished by this section may not be delegated.

9 (d) COSTS OF WITHDRAWING FREQUENCIES AS-  
10 SIGNED TO THE FEDERAL GOVERNMENT.—

1       fected Federal agencies such sums as may be nec-  
2       essary to carry out the purposes of this subsection.

3       **SEC. 6. ALLOCATION AND ASSIGNMENT OF FREQUENCIES**

4                   **BY THE COMMISSION.**

5       (a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY  
6       AVAILABLE FREQUENCIES.—With respect to the 30  
7       megahertz of frequencies made available for immediate  
8       reallocation pursuant to section 5(a)(1), the Commission,  
9       not later than 18 months after the date of enactment of  
10      this Act, shall issue rules to allocate such frequencies and  
11      shall propose rules to assign such frequencies.

12      (b) ALLOCATION AND ASSIGNMENT OF FRE-  
13      QUENCIES AVAILABLE ON DELAYED EFFECTIVE  
14      DATES.—With respect to the frequencies made available  
15      for reallocation pursuant to section 5(a)(2), the Commis-  
16      sion shall, not later than one year after receiving notice  
17      from the President pursuant to section 5(a)(4), prepare,  
18      in consultation with the Assistant Secretary of Commerce  
19      for Communications and Information, and submit to the  
20      President and Congress a plan for the allocation and as-  
21      signment under the Act of such frequencies. Such plan  
22      shall—

23                   (1) not propose the immediate allocation and  
24                   assignment of all such frequencies but, taking into

1 account the timetable recommended by the Secretary  
2 pursuant to section 4(e), shall propose—

3 (A) gradually to allocate and assign the  
4 frequencies remaining, after making the res-  
5 ervation required by subparagraph (B), over the  
6 course of a period of not less than 10 years nor  
7 more than 15 years beginning on the date of  
8 submission of such plan; and

9 (B) to reserve a significant portion of such  
10 frequencies for distribution beginning after the  
11 end of such 10-year period;

12 (2) contain appropriate provisions to ensure the  
13 availability of frequencies for new technologies and  
14 services in accordance with the policies of section 7  
15 of the Act (47 U.S.C. 157);

16 (3) address (A) the feasibility of reallocating  
17 portions of the spectrum from current commercial  
18 and other non-Federal uses to provide for more effi-  
19 cient use of the spectrum, and (B) innovation and  
20 marketplace developments that may affect the rel-  
21 ative efficiencies of different spectrum allocations;  
22 and

23 (4) not prevent the Commission from allocating  
24 frequencies for specific uses in future rulemaking  
25 proceedings.

1       (c) AMENDMENT TO THE ACT.—Section 303 of the  
2 Act (47 U.S.C. 303) is amended by adding at the end the  
3 following new subsection:

4       “(v) Have authority to assign the frequencies reallo-  
5 cated from United States Government use to non-United  
6 States Government use pursuant to the Emerging Tele-  
7 communications Technologies Act of 1993; except that  
8 any such assignment shall be made expressly subject to  
9 the right of the President to reclaim such frequencies  
10 under section 7 of such Act.”.

11 **SEC. 7. AUTHORITY TO RECLAIM REASSIGNED FRE-  
12 QUENCIES.**

13       (a) AUTHORITY OF PRESIDENT.—Subsequent to the  
14 withdrawal of assignment to Federal Government stations  
15 pursuant to section 5, the President may reclaim reas-  
16 signed frequencies for reassignment to Federal Govern-  
17 ment stations in accordance with this section.

18       (b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

19           (1) UNALLOCATED FREQUENCIES.—If the fre-  
20 quencies to be reclaimed have not been allocated or  
21 assigned by the Commission pursuant to the Act,  
22 the President shall follow the procedures for substi-  
23 tution of frequencies established by section 5(b) of  
24 this Act.

12 (B) an estimate of the cost of displacing  
13 spectrum uses licensed by the Commission.

14 (c) COSTS OF RECLAIMING FREQUENCIES; APPRO-  
15 PRIATIONS AUTHORIZED.—The Federal Government shall  
16 bear all costs of reclaiming frequencies pursuant to this  
17 section, including the cost of equipment which is rendered  
18 unusable, the cost of relocating operations to a different  
19 frequency, and any other costs that are directly attrib-  
20 utable to the reclaiming of the frequency pursuant to this  
21 section. There are authorized to be appropriated such  
22 sums as may be necessary to carry out the purposes of  
23 this section.

24 (d) EFFECTIVE DATE OF RECLAIMED FRE-  
25 QUENCIES.—The Commission shall not withdraw licenses

1 for any reclaimed frequencies until the end of the fiscal  
2 year following the fiscal year in which the President's noti-  
3 fication is received.

4 (e) EFFECT ON OTHER LAW.—Nothing in this sec-  
5 tion shall be construed to limit or otherwise affect the au-  
6 thority of the President under section 706 of the Act (47  
7 U.S.C. 606).

8 **SEC. 8. COMPETITIVE BIDDING.**

9 (a) COMPETITIVE BIDDING TEST.—

10 (1) IN GENERAL.—

11 (A) THREE-YEAR AUTHORIZATION.—Sub-  
12 ject to further authorization in an Act making  
13 appropriations for the Commission, the Com-  
14 mission shall, during fiscal years 1994 through  
15 1996, use the competitive bidding process au-  
16 thorized under the amendment made by sub-  
17 section (b) to grant radio spectrum licenses en-  
18 compassing not more than 30 megahertz of fre-  
19 quencies in up to three different services.

20 (B) WAIVER OF REQUIREMENT.—The  
21 Commission may waive the competitive bidding  
22 requirement set forth in subparagraph (A) on a  
23 case by case basis if it determines that a waiver  
24 is necessary to further a fundamental policy ob-  
25 jective of the Act.

1 (C) REPORT TO PRESIDENT AND CON-  
2 GRESS.—The Commission shall prepare, in con-  
3 sultation with the Assistant Secretary of Com-  
4 merce for Communications and Information,  
5 and submit, not later than March 31, 1997, to  
6 the President and the Congress a report on the  
7 use of competitive bidding under subparagraph  
8 (A). Such report shall examine, in addition to  
9 any other matters deemed appropriate by the  
10 Commission, whether and to what extent—

11 (i) competitive bidding significantly  
12 improved the efficiency and effectiveness of  
13 the process for granting radio spectrum li-  
14 censes:

15 (ii) competitive bidding facilitated the  
16 introduction of new spectrum-based tech-  
17 nologies and the entry of new companies  
18 into the telecommunications market;

19 (iii) the needs of rural spectrum users  
20 were adequately addressed in the competi-  
21 tive bidding process;

22 (iv) small businesses were able to par-  
23 ticipate in the competitive bidding process;  
24 and

1 (v) statutory changes are needed to  
2 improve the competitive bidding process.

8 (b) COMPETITIVE BIDDING AUTHORIZATION.—Sec-  
9 tion 309 of the Act (47 U.S.C. 309) is amended by adding  
10 at the end the following new subsection:

“(j)(1) Subject to the exemptions and conditions set forth in the other provisions of this subsection and to a further authorization in an Act making appropriations for the Commission, the Commission shall have authority to use competitive bidding in the granting of new construction permits or initial licenses.

17       “(2)(A) The Commission shall, within 18 months  
18 after the date of enactment of the Emerging Tele-  
19 communications Technologies Act of 1993 and following  
20 public notice and comment proceedings, issue rules estab-  
21 lishing competitive bidding procedures under this sub-  
22 section.

23       “(B)(i) In the rules issued pursuant to subparagraph  
24 (A), the Commission shall require potential bidders to file  
25 a first-stage application indicating an intent to participate

1 in the competitive bidding process and containing such  
2 other information as the Commission finds necessary.  
3 After conducting the bidding, the Commission shall re-  
4 quire the winning bidder to file a second-stage application.  
5 After determining that such application is acceptable for  
6 filing and that the winning bidder is qualified as described  
7 in clause (ii), the Commission shall grant the permit or  
8 license to the winning bidder.

9       “(ii) No permit or license shall be granted to a win-  
10 ning bidder pursuant to clause (i) unless the Commission  
11 determines that such winning bidder is qualified pursuant  
12 to section 308(b) and subsection (a) of this section, on  
13 the basis of the information contained in the first-stage  
14 and second-stage applications submitted pursuant to  
15 clause (i).

16       “(iii) Each participant in the competitive bidding  
17 process shall be subject to the schedule of charges con-  
18 tained in section 8.

19       “(C) In the rules issued pursuant to subparagraph  
20 (A), the Commission shall, in addition to other actions it  
21 finds necessary to implement competitive bidding fairly  
22 and effectively—

23           “(i) establish minimum acceptable competitive  
24 bids;

1           “(ii) establish the method of bidding (including  
2           but not limited to sealed bids) and the basis for pay-  
3           ment (such as lump-sum or installment payments, a  
4           combination thereof, or other reasonable forms of  
5           payment); and

6           “(iii) establish other appropriate conditions on  
7           such permits and licenses that serve the public inter-  
8           est.

9           “(3)(A) If the Commission decides to use competitive  
10           bidding to grant two or more national, regional, or local  
11           licenses in a terrestrial service that will compete with tele-  
12           phone exchange service provided by wire by a common car-  
13           rier in a rural area, the Commission shall designate one  
14           license in such rural area as a rural program license.

15           “(B)(i) Except as provided in subparagraph (D), the  
16           Commissioner may only grant a rural program license to  
17           the qualified common carrier or carriers providing tele-  
18           phone exchange service in the rural area covered by such  
19           license.

20           “(ii) If the geographic service area of a license award-  
21           ed by competitive bidding overlaps the service area of more  
22           than one qualified common carrier, the Commission shall  
23           grant a rural program license to each qualified common  
24           carrier or a consortium of such carriers for that portion  
25           of the geographic area served by a license awarded by com-

1   petitive bidding that is congruent to the geographic area  
2   served by such qualified common carrier or carriers.

3       “(iii) No qualified common carrier that receives a  
4   rural program license in a rural area shall be eligible to—

5           “(I) receive any other license to provide the  
6   same service in such area; or

7           “(II) own any equity interest in, become a cred-  
8   itor of, or otherwise become affiliated with any en-  
9   tity that holds a license to provide the same service  
10   in such area.

11       “(iv) Any qualified common carrier that receives a  
12   rural program license in a rural area shall provide to all  
13   other licensees providing the same service in such area the  
14   same quality of access to its wire network that it provides  
15   itself.

16       “(v) The Commission may establish other rules or  
17   conditions for the award of a rural program license.

18       “(C) Upon the grant of a rural program license to  
19   a qualified common carrier in a rural area, such carrier  
20   shall pay a fee (in lump-sum or installment payments or  
21   a combination thereof or on any other reasonable basis  
22   specified by the Commission) equal to the value of such  
23   license. The value of such license shall be the average of  
24   the amounts paid by persons granted licenses through  
25   competitive bidding to provide the same service in such

1 area, except that the Commission shall determine the  
2 value of such license by any reasonable means when the  
3 geographic area served by the rural license is not congru-  
4 ent with the geographic area served by the other license  
5 or licenses.

6       “(D) If no qualified common carrier applies for a  
7 rural program license, the Commission shall grant such  
8 license to any other qualified applicant by any other means  
9 authorized under this Act.

10       “(E) For purposes of this paragraph—

11           “(i) the term ‘rural area’ means a geographic  
12 area that does not include either—

13           “(I) any incorporated place of 2,500 inhab-  
14 itants or more, or any part thereof; or

15           “(II) any territory, incorporated or unin-  
16 corporated, included in an urbanized area (as  
17 defined by the Bureau of the Census as of the  
18 date of enactment of the Emerging Tele-  
19 communications Technologies Act of 1993); and

20           “(ii) the term ‘qualified common carrier’ means  
21 a common carrier that—

22           “(I) provides telephone exchange service by  
23 wire in a rural area; and

24           “(II) submits an application for a rural  
25 program license in such area that meets the

1           standards established by the Commission to de-  
2           termine ability to provide the service covered by  
3           the license.

4        “(4) The competitive bidding authority provided to  
5 the Commission in paragraph (1) shall not extend to—

6           “(A) license renewals and modifications;

7           “(B) the United States Government and State  
8 or local government entities;

9           “(C) amateur operator services, over-the-air ter-  
10          restrial radio and television broadcast services, pub-  
11          lic safety services, and radio astronomy services;

12          “(D) private radio end-user licenses, such as  
13          Specialized Mobile Radio Service (SMRS), maritime,  
14          and aeronautical end-user licenses;

15          “(E) any license grant to a non-Federal licensee  
16          being moved from its current frequency assignment  
17          to a different one by the Commission in order to im-  
18          plement the goals and objectives underlying the  
19          Emerging Telecommunications Technologies Act of  
20          1993; and

21          “(F) any other service, class of services, or as-  
22          signments that the Commission determines, after  
23          conducting public notice and comment proceedings,  
24          should be exempt from competitive bidding because  
25          of public interest factors warranting an exemption to

1 the extent the Commission determines the use of  
2 competitive bidding would jeopardize appropriate  
3 treatment of those factors.

4 “(5) No provision of this subsection or of the Emerg-  
5 ing Telecommunications Technologies Act of 1993 shall  
6 be construed, in any way, to—

7 “(A) alter spectrum allocation criteria and pro-  
8 cedures established by the other provisions of this  
9 Act;

10 “(B) diminish the authority of the Commission  
11 under the other provisions of this Act to regulate or  
12 reclaim spectrum licenses; or

13 “(C) grant any right to a spectrum licensee dif-  
14 ferent from the rights awarded to licensees who ob-  
15 tained their license through assignment methods  
16 other than competitive bidding.

17 “(6) Moneys received from competitive bidding pur-  
18 suant to this subsection shall be deposited in the general  
19 fund of the Treasury.”.

20 (c) FURTHER AUTHORIZATION DEFINED.—For pur-  
21 poses of this section and section 309(j) of the Act, as  
22 amended by this Act, the inclusion of the following lan-  
23 guage in an Act making appropriations for the Commis-  
24 sion shall be sufficient to meet any requirement that ac-  
25 tion by the Commission be further authorized: “The au-

1 thority of the Federal Communications Commission to use  
2 competitive bidding in the granting of radio spectrum li-  
3 censes in conformance with the procedures set forth in the  
4 Emerging Telecommunications Technologies Act of 1993  
5 is hereby reconfirmed.”.

6 **SEC. 9. DEFINITIONS.**

7 As used in this Act:

8 (1) The term “allocation” means an entry in  
9 the National Table of Frequency Allocations of a  
10 given frequency band for the purpose of its use by  
11 one or more radiocommunication services.

12 (2) The term “assignment” means an author-  
13 ization given to a station licensee to use specific fre-  
14 quencies or channels.

15 (3) The term “commercial carrier” means any  
16 entity that uses a facility licensed by the Federal  
17 Communications Commission pursuant to the Com-  
18 munications Act of 1934 for hire or for its own use,  
19 but does not include Federal Government stations li-  
20 censed pursuant to section 305 of the Act (47  
21 U.S.C. 305).

22 (4) The term “Commission” means the Federal  
23 Communications Commission.

24 (5) The term “Secretary” means the Secretary  
25 of Commerce.

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