

ter, including costs of the Board and of the Administrator.

**(B) Subject to appropriations**

The authority provided by this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

**(C) Limitation on fees**

The aggregate amount of fees imposed by this subsection shall not exceed the actual amount of administrative costs under this chapter.

**(o) Requirements relating to affiliates**

**(1) Indemnification**

The United States shall be indemnified by any affiliate (acceptable to the Board) of an applicant for a loan guarantee under this chapter for any losses that the United States incurs as a result of—

(A) a judgment against the applicant or any of its affiliates;

(B) any breach by the applicant or any of its affiliates of their obligations under the loan guarantee agreement;

(C) any violation of the provisions of this chapter, and the regulations prescribed under this chapter, by the applicant or any of its affiliates;

(D) any penalties incurred by the applicant or any of its affiliates for any reason, including violation of a stipulated performance schedule under subsection (f) of this section; and

(E) any other circumstances that the Board considers appropriate.

**(2) Limitation on transfer of loan proceeds**

An applicant for a loan guarantee under this chapter may not transfer any part of the proceeds of the loan to an affiliate.

**(p) Effect of bankruptcy**

(1) Notwithstanding any other provision of law, whenever any person or entity is indebted to the United States as a result of any loan guarantee issued under this chapter and such person or entity is insolvent or is a debtor in a case under title 11, the debts due to the United States shall be satisfied first.

(2) A discharge in bankruptcy under title 11 shall not release a person or entity from an obligation to the United States in connection with a loan guarantee under this chapter.

(Pub. L. 106-553, §1(a)(2) [title X, §1005], Dec. 21, 2000, 114 Stat. 2762, 2762A-134; Pub. L. 107-171, title VI, §6404(b)(2), May 13, 2002, 116 Stat. 430.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, and was translated as reading “this title”. See References in Text note set out under section 1101 of this title.

Section 1103(e)(1) of this title, referred to in subsec. (f)(1), was in the original a reference to section 4(e)(1), and was translated as referring to section 1004(e)(1) of title X of H.R. 5548, as enacted by Pub. L. 106-553, §1(a)(2), to reflect the probable intent of Congress. Pub. L. 106-553 does not contain a section 4 and section 1004 relates to projects to be given priority for loan guarantees.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-171, §6404(b)(2)(A), made technical amendments to references in original Act which appear in text as references to sections 1102 and 1103 of this title.

Subsec. (b)(1)(D). Pub. L. 107-171, §6404(b)(2)(B)(i), made technical amendment to reference in original Act which appears in text as a reference to section 1105(a)(2) of this title.

Subsec. (b)(3). Pub. L. 107-171, §6404(b)(2)(B)(ii), made technical amendment to reference in original Act which appears in text as a reference to section 1103(d)(3)(B)(iii) of this title.

Subsec. (e)(3). Pub. L. 107-171, §6404(b)(2)(C), made technical amendment to reference in original Act which appears in text as a reference to section 1103(g) of this title.

**§ 1105. Annual audit**

**(a) Requirement**

The Comptroller General of the United States shall conduct on an annual basis an audit of—

(1) the administration of the provisions of this chapter; and

(2) the financial position of each applicant who receives a loan guarantee under this chapter, including the nature, amount, and purpose of investments made by the applicant.

**(b) Report**

The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives a report on each audit conducted under subsection (a) of this section.

(Pub. L. 106-553, §1(a)(2) [title X, §1006], Dec. 21, 2000, 114 Stat. 2762, 2762A-138.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, and was translated as reading “this title”. See References in Text note set out under section 1101 of this title.

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

**§ 1106. Improved cellular service in rural areas**

**(a) Reinstatement of applicants as tentative selectees**

**(1) In general**

Notwithstanding the order of the Federal Communications Commission in the proceeding described in paragraph (3), the Commission shall—

(A) reinstate each applicant as a tentative selectee under the covered rural service area licensing proceeding; and

(B) permit each applicant to amend its application, to the extent necessary to update factual information and to comply with the rules of the Commission, at any time before the Commission’s final licensing action in the covered rural service area licensing proceeding.

**(2) Exemption from petitions to deny**

For purposes of the amended applications filed pursuant to paragraph (1)(B), the provisions of section 309(d)(1) of this title shall not apply.

**(3) Proceeding**

The proceeding described in this paragraph is the proceeding of the Commission In re Applications of Cellwave Telephone Services L.P., Futurewave General Partners L.P., and Great Western Cellular Partners, 7 FCC Rcd No. 19 (1992).

**(b) Continuation of license proceeding; fee assessment****(1) Award of licenses**

The Commission shall award licenses under the covered rural service area licensing proceeding within 90 days after December 21, 2000.

**(2) Service requirements**

The Commission shall provide that, as a condition of an applicant receiving a license pursuant to the covered rural service area licensing proceeding, the applicant shall provide cellular radiotelephone service to subscribers in accordance with sections 22.946 and 22.947 of the Commission's rules (47 CFR 22.946, 22.947); except that the time period applicable under section 22.947 of the Commission's rules (or any successor rule) to the applicants identified in subparagraphs (A) and (B) of subsection (d)(1) of this section shall be 3 years rather than 5 years and the waiver authority of the Commission shall apply to such 3-year period.

**(3) Calculation of license fee****(A) Fee required**

The Commission shall establish a fee for each of the licenses under the covered rural service area licensing proceeding. In determining the amount of the fee, the Commission shall consider—

- (i) the average price paid per person served in the Commission's Cellular Unserved Auction (Auction No. 12); and
- (ii) the settlement payments required to be paid by the permittees pursuant to the consent decree set forth in the Commission's order. In re the Tellesis Partners (7 FCC Rcd 3168 (1992)), multiplying such payments by two.

**(B) Notice of fee**

Within 30 days after the date an applicant files the amended application permitted by subsection (a)(1)(B) of this section, the Commission shall notify each applicant of the fee established for the license associated with its application.

**(4) Payment for licenses**

No later than 18 months after the date that an applicant is granted a license, each applicant shall pay to the Commission the fee established pursuant to paragraph (3) for the license granted to the applicant under paragraph (1).

**(5) Auction authority**

If, after the amendment of an application pursuant to subsection (a)(1)(B) of this sec-

tion, the Commission finds that the applicant is ineligible for grant of a license to provide cellular radiotelephone services for a rural service area or the applicant does not meet the requirements under paragraph (2) of this subsection, the Commission shall grant the license for which the applicant is the tentative selectee (<sup>1</sup>pursuant to subsection (a)(1)(B) of this section by competitive bidding pursuant to section 309(j) of this title.

**(c) Prohibition of transfer**

During the 5-year period that begins on the date that an applicant is granted any license pursuant to subsection (a) of this section, the Commission may not authorize the transfer or assignment of that license under section 310 of this title. Nothing in this chapter may be construed to prohibit any applicant granted a license pursuant to subsection (a) of this section from contracting with other licensees to improve cellular telephone service.

**(d) Definitions**

For the purposes of this section, the following definitions shall apply:

**(1) Applicant**

The term "applicant" means—

(A) Great Western Cellular Partners, a California general partnership chosen by the Commission as tentative selectee for RSA #492 on May 4, 1989;

(B) Monroe Telephone Services L.P., a Delaware limited partnership chosen by the Commission as tentative selectee for RSA #370 on August 24, 1989 (formerly Cellwave Telephone Services L.P.); and

(C) FutureWave General Partners L.P., a Delaware limited partnership chosen by the Commission as tentative selectee for RSA #615 on May 25, 1990.

**(2) Commission**

The term "Commission" means the Federal Communications Commission.

**(3) Covered rural service area licensing proceeding**

The term "covered rural service area licensing proceeding" means the proceeding of the Commission for the grant of cellular radiotelephone licenses for rural service areas #492 (Minnesota 11), #370 (Florida 11), and #615 (Pennsylvania 4).

**(4) Tentative selectee**

The term "tentative selectee" means a party that has been selected by the Commission under a licensing proceeding for grant of a license, but has not yet been granted the license because the Commission has not yet determined whether the party is qualified under the Commission's rules for grant of the license.

(Pub. L. 106-553, §1(a)(2) [title X, §1007], Dec. 21, 2000, 114 Stat. 2762, 2762A-138.)

## REFERENCES IN TEXT

This chapter, referred to subsec. (c), was in the original "this Act", and was translated as reading "this

<sup>1</sup> So in original. No closing parenthesis was enacted.

title”. See References in Text note set out under section 1101 of this title.

### § 1107. Sunset

No loan guarantee may be approved under this chapter after December 31, 2006.

(Pub. L. 106-553, §1(a)(2) [title X, §1009], Dec. 21, 2000, 114 Stat. 2762, 2762A-140.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, and was translated as reading “this title”. See References in Text note set out under section 1101 of this title.

### § 1108. Definitions

In this chapter:

#### (1) Affiliate

The term “affiliate”—

(A) means any person or entity that controls, or is controlled by, or is under common control with, another person or entity; and

(B) may include any individual who is a director or senior management officer of an affiliate, a shareholder controlling more than 25 percent of the voting securities of an affiliate, or more than 25 percent of the ownership interest in an affiliate not organized in stock form.

#### (2) Nonserved area

The term “nonserved area” means any area that—

(A) is outside the grade B contour (as determined using standards employed by the Federal Communications Commission) of the local television broadcast signals serving a particular designated market area; and

(B) does not have access to such signals by any commercial, for profit, multichannel video provider.

#### (3) Underserved area

The term “underserved area” means any area that—

(A) is outside the grade A contour (as determined using standards employed by the Federal Communications Commission) of the local television broadcast signals serving a particular designated market area; and

(B) has access to local television broadcast signals from not more than one commercial, for-profit multichannel video provider.

#### (4) Common terms

Except as provided in paragraphs (1) through (3), any term used in this chapter that is defined in the Communications Act of 1934 (47 U.S.C. 151 et seq.) has the meaning given that term in the Communications Act of 1934.

(Pub. L. 106-553, §1(a)(2) [title X, §1010], Dec. 21, 2000, 114 Stat. 2762, 2762A-140.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, and was translated as reading “this title”. See References in Text note set out under section 1101 of this title.

The Communications Act of 1934, referred to in par. (4), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amend-

ed, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

### § 1109. Authorizations of appropriations

#### (a) Cost of loan guarantees

##### (1) Authorization of appropriations

For the cost of the loans guaranteed under this chapter, including the cost of modifying the loans, as defined in section 661a of title 2, there are authorized to be appropriated for fiscal years 2001 through 2006, such amounts as may be necessary.

##### (2) Commodity Credit Corporation funds

###### (A) In general

Notwithstanding any other provision of law, subject to subparagraph (B), in addition to amounts made available under paragraph (1), of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available for loan guarantees to carry out this chapter \$80,000,000 for the period beginning on May 13, 2002, and ending on December 31, 2006, to remain available until expended.

###### (B) Broadband loans and loan guarantees

###### (i) In general

Amounts made available under subparagraph (A) that are not obligated as of the release date described in clause (ii) shall be available to the Secretary to make loans and loan guarantees under section 950bb of title 7.

###### (ii) Release date

For purposes of clause (i), the release date is the date that is the earlier of—

(I) the date the Secretary determines that at least 75 percent of the designated market areas (as defined in section 122(j) of title 17) not in the top 40 designated market areas described in section 1103(e)(1)(C)(i) of this title have access to local television broadcast signals for virtually all households (as determined by the Secretary); or

(II) December 31, 2006.

###### (C) Advanced appropriations

Subsections (c) and (h)(1)(B) of section 1103 of this title and section 1104(n)(3)(B) of this title shall not apply to amounts made available under this paragraph.

#### (b) Cost of administration

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter, other than to cover costs under subsection (a) of this section.

#### (c) Availability

Any amounts appropriated pursuant to the authorizations of appropriations in subsections (a) and (b) of this section shall remain available until expended.

(Pub. L. 106-553, §1(a)(2) [title X, §1011], Dec. 21, 2000, 114 Stat. 2762, 2762A-141; Pub. L. 107-171, title VI, §6404(a), May 13, 2002, 116 Stat. 429.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b), was in the original “this Act”, and was translated as read-