

Calendar No. 344

103D CONGRESS
1ST SESSION

S. 335

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.

DECEMBER 9, 1993

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

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

DECEMBER 9, 1993

Reported under authority of the order of the Senate of November 17 (legislative day, November 2), 1993 by Mr. HOLLINGS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) the Federal Government currently reserves
7 for its own use, or has priority of access to, approxi-
8 mately 40 percent of the electromagnetic spectrum
9 that is assigned for use pursuant to the Communica-
10 tions Act of 1934;

11 (2) many of such frequencies are underutilized
12 by Federal Government licensees;

13 (3) the public interest requires that many of
14 such frequencies be utilized more efficiently by Fed-
15 eral Government and non-Federal licensees;

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

19 (5) scarcity of assignable frequencies for licens-
20 ing by the Commission can and will—

21 (A) impede the development and commer-
22 cialization of new telecommunications products
23 and services;

24 (B) limit the capacity and efficiency of the
25 telecommunications systems in the United
26 States;

1 (C) prevent some State and local police,
2 fire, and emergency services from obtaining ur-
3 gently needed radio channels; and

4 (D) adversely affect the productive capac-
5 ity and international competitiveness of the
6 United States economy;

7 (6) a reassignment of these frequencies can
8 produce significant economic returns;

9 (7) a reassignment of Federal Government fre-
10 quencies can be accomplished without adverse im-
11 pact on amateur radio licenses that currently share
12 allocations with Federal Government stations;

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

19 (9) competitive bidding could reduce the cost in
20 time and money—and increase the efficiency—of the
21 spectrum assignment process for certain radio serv-
22 ices; discourage speculative applications; encourage
23 the efficient use of spectrum by licensees; and fairly
24 compensate United States taxpayers for use of a
25 scarce public natural resource;

1 (10) competitive bidding should be structured
2 to—

3 (A) facilitate introduction of new spec-
4 trum-based technologies and services and entry
5 of new companies into the telecommunications
6 market;

7 (B) recognize the legitimate needs of rural
8 telephone companies in providing spectrum-
9 based, common carrier services in rural markets
10 in which they provide telephone exchange serv-
11 ice by wire;

12 (C) give appropriate consideration to small
13 businesses that want to participate in the com-
14 petitive bidding process;

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

18 (E) otherwise further the public interest;

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

22 (A) disrupt the operations of existing spec-
23 trum licensees;

24 (B) alter existing spectrum allocation pro-
25 cedures;

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

3 (D) diminish the existing authority of the
4 Federal Communications Commission to regu-
5 late or reclaim spectrum licenses; or

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

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

12 (A) funding spectrum management, plan-
13 ning, monitoring, and enforcement and other
14 activities of the Federal Communications Com-
15 mission, the National Telecommunications and
16 Information Administration, and other Federal
17 agencies aimed at increasing the efficiency and
18 effectiveness of spectrum use, facilitating the
19 introduction of new spectrum-based tech-
20 nologies and services, and enhancing the inter-
21 national competitiveness of the United States
22 and the ability of American companies to enter
23 new markets; and

24 (B) extending the reach of public radio
25 and television to underserved areas of the Unit-

1 ed States and underserved groups of Ameri-
2 cans; and

3 ~~(13)~~ the Secretary of Commerce, the President,
4 and Federal Communications Commission should be
5 directed to take appropriate steps to correct these
6 deficiencies.

7 **SEC. 3. NATIONAL SPECTRUM PLANNING.**

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

13 (1) the future spectrum requirements for public
14 and private uses, including State and local govern-
15 ment public safety agencies;

16 (2) the spectrum allocation actions necessary to
17 accommodate those uses; and

18 ~~(3)~~ actions necessary to promote the efficient
19 use of the spectrum, including spectrum manage-
20 ment techniques to promote increased shared use of
21 the spectrum that does not cause harmful inter-
22 ference, as a means of increasing commercial access.

23 ~~(b)~~ **REPORTS.**—The Assistant Secretary of Com-
24 merce for Communications and Information and the
25 Chairman of the Commission shall submit a joint annual

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

10 **SEC. 4. RECOMMENDATIONS FOR REALLOCATION OF CER-**
11 **TAIN FREQUENCIES.**

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

15 (1) are allocated on a primary basis for Federal
16 Government use;

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

19 (3) can feasibly be made available, as of the
20 date of such identification or at any time during the
21 next 15 years, for use under the Act (other than for
22 Federal Government stations under section 305
23 thereof) without resulting in costs to the Federal
24 Government, or loss of services or benefits to the

1 public, that are excessive in relation to the benefits
2 that may be obtained by non-Federal licensees; and

3 (4) are most likely to have the greatest poten-
4 tial for productive uses and public benefits under the
5 Act if allocated for commercial uses.

6 (b) MINIMUM AMOUNT OF SPECTRUM REC-
7 OMMENDED.—

8 (1) OVERALL RECOMMENDATION.—In accord-
9 ance with the provisions of this section, the Sec-
10 retary shall recommend for reallocation, for use
11 other than by Federal Government stations under
12 section 305 of the Act (47 U.S.C. 305), at least 200
13 megahertz of frequencies identified under subsection
14 (a) that are located below 5 gigahertz. At least one-
15 half of such frequencies shall be located below 3
16 gigahertz.

17 (2) MIXED USES PERMITTED TO BE COUNT-
18 ED.—Among the frequencies recommended under
19 this section for allocation, the Secretary may include
20 frequencies and frequency bands that are to be par-
21 tially retained for use by Federal Government sta-
22 tions but that are also recommended to be reallo-
23 cated under the Act for use by non-Federal stations,
24 except that—

1 (A) such mixed-use frequencies and fre-
2 quency bands may not count toward more than
3 one-half of the 200 megahertz minimum re-
4 quired by paragraph (1);

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

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

20 (c) CONSIDERATION OF CRITERIA FOR IDENTIFICA-
21 TION.—

22 (1) NEEDS OF THE FEDERAL GOVERNMENT.—

23 In determining whether a frequency meets the cri-
24 teria specified in subsection (a)(2), the Secretary
25 shall—

1 (A) consider whether the frequency is used
2 to provide a communications service that is or
3 could be available from a commercial carrier or
4 other vendor;

5 (B) seek to promote—

6 (i) the maximum practicable reliance
7 on commercially available substitutes;

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

10 (iii) the development and use of new
11 communications technologies; and

12 (iv) the use of nonradiating commu-
13 nications systems where practicable; and

14 (C) seek to avoid—

15 (i) serious degradation of Federal
16 Government services and operations;

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

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

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

1 (A) assume that the frequency will be as-
2 signed by the Commission under section 303 of
3 the Act (47 U.S.C. 303) over the course of not
4 less than 15 years;

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

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

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

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

19 (3) ~~COMMERCIAL USE.~~—In determining wheth-
20 er a frequency meets the criteria specified in sub-
21 section (a)(4), the Secretary shall consider—

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

1 (B) the proximity of frequencies that are
2 already assigned for commercial or other non-
3 Federal use;

4 (C) the extent to which commercial users
5 can share the frequency with amateur radio li-
6 censees; and

7 (D) the activities of foreign governments in
8 making frequencies available for experimen-
9 tation or commercial assignments in order to
10 support their domestic manufacturers of equip-
11 ment.

12 (4) OTHER USES.—

13 (A) APPLICABILITY OF CRITERIA.—The
14 criteria specified by subsection (a) shall be
15 deemed not to be met for any purpose under
16 this Act with regard to any frequency assign-
17 ment to, or any frequency assignment used by,
18 a Federal power agency for the purpose of with-
19 drawing that assignment.

20 (B) MIXED USE ELIGIBILITY.—The fre-
21 quencies assigned to any Federal power agency
22 may only be eligible for mixed use under sub-
23 section (b)(2) in geographically separate areas,
24 but in those cases where a frequency is to be
25 shared by an affected Federal power agency

1 and a non-Federal user, such use by the non-
2 Federal user shall not cause harmful inter-
3 ference to the affected Federal power agency or
4 adversely affect the reliability of its power sys-
5 tem.

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

12 (d) PROCEDURE FOR IDENTIFICATION OF
13 REALLOCABLE BANDS OF FREQUENCIES.—

14 (1) SUBMISSION OF REPORTS TO THE PRESI-
15 DENT AND CONGRESS.—

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

1 half of such frequencies shall be located below
2 3 gigahertz.

3 (B) PRELIMINARY REPORT ON OTHER
4 REALLOCABLE FREQUENCIES.—Within 12
5 months after the date of enactment of this Act,
6 the Secretary shall prepare and submit to the
7 President and the Congress a preliminary re-
8 port that recommends for reallocation at least
9 170 megahertz of frequencies identified under
10 subsection (a), other than those recommended
11 for immediate reallocation under subparagraph
12 (A).

13 (C) FINAL REPORT ON OTHER
14 REALLOCABLE FREQUENCIES.—Within 24
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 final report that
18 recommends the reallocation of at least 170
19 megahertz of frequencies as described in sub-
20 paragraph (B). Not less than one-half of such
21 frequencies shall be located below 3 gigahertz.

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

1 to the date of enactment of this Act, for
2 reallocation to non-Federal use by international
3 agreement.

4 ~~(2) CONVENING OF ADVISORY COMMITTEE.—~~

5 Not later than the date the Secretary submits the
6 report required by paragraph ~~(1)(B)~~, the Secretary
7 shall convene an advisory committee to—

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

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

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

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

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

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

1 (A) the Chairman of the Commission and
2 the Assistant Secretary of Commerce for Com-
3 munications and Information, and one other
4 representative of the Federal Government as
5 designated by the Secretary; and

6 (B) representatives of—

7 (i) United States manufacturers of
8 spectrum-dependent telecommunications
9 equipment;

10 (ii) commercial carriers;

11 (iii) other users of the electromagnetic
12 spectrum, including radio and television
13 broadcast licensees, State and local public
14 safety agencies, amateur radio licensees,
15 and the aviation industry; and

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

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

23 (4) RECOMMENDATIONS ON SPECTRUM ALLOCA-
24 TION PROCEDURES.—The advisory committee shall,
25 not later than 36 months after the date of enact-

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

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

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

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

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

1 (4) transmit a notice and description to the
2 Commission and each House of Congress of the ac-
3 tions taken under this subsection.

4 (b) EXCEPTIONS.—

5 (1) AUTHORITY TO SUBSTITUTE.—If the Presi-
6 dent determines that a circumstance described in
7 paragraph (2) exists, the President—

8 (A) may substitute an alternative fre-
9 quency for the frequency that is subject to such
10 determination and withdraw (or limit) the as-
11 signment of that alternative frequency in the
12 manner required by subsection (a); and

13 (B) shall submit a statement of the rea-
14 sons for taking the action described in subpara-
15 graph (A) to the Committee on Energy and
16 Commerce of the House of Representatives and
17 the Committee on Commerce, Science, and
18 Transportation of the Senate.

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

22 (A) The reassignment would seriously jeop-
23 ardize the national defense interests of the
24 United States.

1 (B) The frequency proposed for reassign-
2 ment is uniquely suited to meeting important
3 governmental needs.

4 (C) The reassignment would seriously jeop-
5 ardize public health or safety.

6 (D) The reassignment will result in costs
7 to the Federal Government that are excessive in
8 relation to the benefits that may be obtained
9 from commercial or other non-Federal uses of
10 the reassigned frequency.

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

14 (3) CRITERIA FOR SUBSTITUTED FRE-
15 QUENCIES.—For purposes of paragraph (1), a fre-
16 quency may not be substituted for a frequency iden-
17 tified and recommended under section 4 for
18 reallocation, unless the substituted frequency also
19 meets each of the criteria specified by section 4(a).

20 (4) DELAYS IN IMPLEMENTATION.—If the
21 President determines that any action cannot be com-
22 pleted by the effective date recommended by the Sec-
23 retary pursuant to section 4(e), or that such an ac-
24 tion by such date would result in a frequency being

1 unused as a consequence of the Commission's plan
2 under section 6(b), the President may—

3 (A) withdraw or limit the assignment to
4 Federal Government stations on a later date
5 that is consistent with such plan, except that
6 the President shall notify each Committee spec-
7 ified in paragraph (1)(B) and the Commission
8 of the reason that withdrawal or limitation at
9 a later date is required; or

10 (B) substitute alternative frequencies pur-
11 suant to this subsection.

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

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

17 (1) REIMBURSEMENT AUTHORIZED.—Any Fed-
18 eral agency, or non-Federal entity operating on be-
19 half of a Federal agency, whose operation is dis-
20 placed from a frequency pursuant to this section
21 may be reimbursed, from revenues received pursuant
22 to section 8, not more than the incremental costs
23 such agency or entity incurs (in such amounts as
24 provided in advance in an appropriations Act) that
25 are directly attributable to the displacement from

1 the frequency. The estimates of these costs shall be
2 prepared by the affected agency, in consultation with
3 the Department of Commerce.

4 (2) AUTHORIZATION OF APPROPRIATIONS.—

5 There are authorized to be appropriated to the af-
6 fected Federal agencies such sums as may be nec-
7 essary to carry out the purposes of this subsection.

8 **SEC. 6. ALLOCATION AND ASSIGNMENT OF FREQUENCIES**
9 **BY THE COMMISSION.**

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

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

1 signment under the Act of such frequencies. Such plan
2 shall—

3 (1) not propose the immediate allocation and
4 assignment of all such frequencies but, taking into
5 account the timetable recommended by the Secretary
6 pursuant to section 4(e), shall propose—

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

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

16 (2) contain appropriate provisions to ensure the
17 availability of frequencies for new technologies and
18 services in accordance with the policies of section 7
19 of the Act (47 U.S.C. 157);

20 (3) address (A) the feasibility of reallocating
21 portions of the spectrum from current commercial
22 and other non-Federal uses to provide for more effi-
23 cient use of the spectrum, and (B) innovation and
24 marketplace developments that may affect the rel-

1 assigned by the Commission pursuant to the Act,
2 the President shall follow the procedures for substi-
3 tution of frequencies established by section 5(b) of
4 this Act.

5 (2) ~~ALLOCATED FREQUENCIES.~~—If the fre-
6 quencies to be reclaimed have been allocated or as-
7 signed by the Commission, the President shall follow
8 the procedures for substitution of frequencies estab-
9 lished by section 5(b) of this Act, except that the no-
10 tification required by section 5(b)(1)(B) shall in-
11 clude—

12 (A) a timetable to accommodate an orderly
13 transition for displaced licensees to obtain new
14 frequencies and equipment necessary for its uti-
15 lization; and

16 (B) an estimate of the cost of displacing
17 spectrum uses licensed by the Commission.

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

1 sums as may be necessary to carry out the purposes of
2 this section.

3 ~~(d) EFFECTIVE DATE OF RECLAIMED FRE-~~
4 ~~QUENCIES.~~—The Commission shall not withdraw licenses
5 for any reclaimed frequencies until the end of the fiscal
6 year following the fiscal year in which the President's noti-
7 fication is received.

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

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

13 ~~(a) COMPETITIVE BIDDING TEST.~~—

14 ~~(1) IN GENERAL.~~—

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

24 ~~(B) WAIVER OF REQUIREMENT.~~—The
25 Commission may waive the competitive bidding

1 requirement set forth in subparagraph (A) on a
2 case by case basis if it determines that a waiver
3 is necessary to further a fundamental policy ob-
4 jective of the Act.

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

15 (i) competitive bidding significantly
16 improved the efficiency and effectiveness of
17 the process for granting radio spectrum li-
18 censes;

19 (ii) competitive bidding facilitated the
20 introduction of new spectrum-based tech-
21 nologies and the entry of new companies
22 into the telecommunications market;

23 (iii) the needs of rural spectrum users
24 were adequately addressed in the competi-
25 tive bidding process;

1 (iv) small businesses were able to par-
2 ticipate in the competitive bidding process;
3 and

4 (v) statutory changes are needed to
5 improve the competitive bidding process.

6 (2) LIMITATION.—Notwithstanding any other
7 provision of this Act or other law, the Commission
8 shall not use competitive bidding, prior to September
9 30, 1997, to grant radio spectrum licenses except as
10 required in paragraph (1)(A).

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

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

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

1 ~~“(B)(i) In the rules issued pursuant to subparagraph~~
2 ~~(A), the Commission shall require potential bidders to file~~
3 ~~a first-stage application indicating an intent to participate~~
4 ~~in the competitive bidding process and containing such~~
5 ~~other information as the Commission finds necessary.~~
6 ~~After conducting the bidding, the Commission shall re-~~
7 ~~quire the winning bidder to file a second-stage application.~~
8 ~~After determining that such application is acceptable for~~
9 ~~filing and that the winning bidder is qualified as described~~
10 ~~in clause (ii), the Commission shall grant the permit or~~
11 ~~license to the winning bidder.~~

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

19 ~~“(iii) Each participant in the competitive bidding~~
20 ~~process shall be subject to the schedule of charges con-~~
21 ~~tained in section 8.~~

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

1 “(i) establish minimum acceptable competitive
2 bids;

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

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

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

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

22 “(ii) If the geographic service area of a license award-
23 ed by competitive bidding overlaps the service area of more
24 than one qualified common carrier, the Commission shall
25 grant a rural program license to each qualified common

1 carrier or a consortium of such carriers for that portion
2 of the geographic area served by a license awarded by com-
3 petitive bidding that is congruent to the geographic area
4 served by such qualified common carrier or carriers.

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

7 ~~“(I) receive any other license to provide the~~
8 ~~same service in such area; or~~

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

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

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

20 ~~“(C) Upon the grant of a rural program license to~~
21 ~~a qualified common carrier in a rural area, such carrier~~
22 ~~shall pay a fee (in lump-sum or installment payments or~~
23 ~~a combination thereof or on any other reasonable basis~~
24 ~~specified by the Commission) equal to the value of such~~
25 ~~license. The value of such license shall be the average of~~

1 the amounts paid by persons granted licenses through
2 competitive bidding to provide the same service in such
3 area, except that the Commission shall determine the
4 value of such license by any reasonable means when the
5 geographic area served by the rural license is not congru-
6 ent with the geographic area served by the other license
7 or licenses.

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

12 “(E) For purposes of this paragraph—

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

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

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

22 “(ii) the term ‘qualified common carrier’ means
23 a common carrier that—

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

1 “(II) submits an application for a rural
2 program license in such area that meets the
3 standards established by the Commission to de-
4 termine ability to provide the service covered by
5 the license.

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

8 “(A) license renewals and modifications;

9 “(B) the United States Government and State
10 or local government entities;

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

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

17 “(E) any license grant to a non-Federal licensee
18 being moved from its current frequency assignment
19 to a different one by the Commission in order to im-
20 plement the goals and objectives underlying the
21 Emerging Telecommunications Technologies Act of
22 1993; and

23 “(F) any other service, class of services, or as-
24 signments that the Commission determines, after
25 conducting public notice and comment proceedings,

1 should be exempt from competitive bidding because
2 of public interest factors warranting an exemption to
3 the extent the Commission determines the use of
4 competitive bidding would jeopardize appropriate
5 treatment of those factors.

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

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

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

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

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

22 (c) FURTHER AUTHORIZATION DEFINED.—For pur-
23 poses of this section and section 309(j) of the Act, as
24 amended by this Act, the inclusion of the following lan-
25 guage in an Act making appropriations for the Commis-

1 sion shall be sufficient to meet any requirement that ac-
2 tion by the Commission be further authorized: “The au-
3 thority of the Federal Communications Commission to use
4 competitive bidding in the granting of radio spectrum li-
5 censes in conformance with the procedures set forth in the
6 Emerging Telecommunications Technologies Act of 1993
7 is hereby reconfirmed.”.

8 **SEC. 9. DEFINITIONS.**

9 As used in this Act:

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

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

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

24 (4) The term “Commission” means the Federal
25 Communications Commission.

1 (5) The term “Secretary” means the Secretary
2 of Commerce.

3 (6) The term “the Act” means the Communica-
4 tions Act of 1934 (47 U.S.C. 151 et seq.).

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “Emerging Telecommuni-
7 cations Technologies Act of 1993”.*

8 **SEC. 2. FINDINGS.**

9 *The Congress finds that—*

10 (1) *the Federal Government currently reserves*
11 *for its own use, or has priority of access to, approxi-*
12 *mately 40 percent of the electromagnetic spectrum*
13 *that is assigned for use pursuant to the Communica-*
14 *tions Act of 1934;*

15 (2) *many of such frequencies are underutilized*
16 *by Federal Government licensees;*

17 (3) *the public interest requires that many of such*
18 *frequencies be utilized more efficiently by Federal*
19 *Government and non-Federal licensees;*

20 (4) *additional frequencies are assigned for serv-*
21 *ices that could be obtained more efficiently from com-*
22 *mercial providers or other vendors;*

23 (5) *scarcity of assignable frequencies for licens-*
24 *ing by the Commission can and will—*

1 (A) impede the development and commer-
2 cialization of new telecommunications products
3 and services;

4 (B) limit the capacity and efficiency of tele-
5 communications systems in the United States;

6 (C) prevent some State and local police,
7 fire, and emergency services from obtaining ur-
8 gently needed radio channels; and

9 (D) adversely affect the productive capacity
10 and international competitiveness of the United
11 States economy;

12 (6) a reassignment of these frequencies can
13 produce significant economic returns;

14 (7) a reassignment of Federal Government fre-
15 quencies can be accomplished without adverse impact
16 on amateur radio licenses that currently share alloca-
17 tions with Federal Government stations;

18 (8) current spectrum assignment procedures—
19 comparative hearings and lotteries—can be expensive
20 and time consuming, can strain the limited resources
21 of the Federal Communications Commission, and can
22 result in an inefficient distribution of spectrum and
23 an unjustified windfall to speculators;

24 (9) competitive bidding could reduce the cost in
25 time and money—and increase the efficiency—of the

1 *spectrum assignment process for certain radio serv-*
2 *ices, discourage speculative applications, encourage*
3 *the efficient use of spectrum by licensees, and fairly*
4 *compensate United States taxpayers for use of a*
5 *scarce public natural resource;*

6 *(10) competitive bidding should be structured*
7 *to—*

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

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

16 *(C) give appropriate consideration to small*
17 *businesses and minority-owned businesses that*
18 *want to participate in the competitive bidding*
19 *process;*

20 *(D) recognize the need to make reasonably*
21 *priced mobile communications services available*
22 *to businesses in rural areas;*

23 *(E) recognize the need to ensure that ade-*
24 *quate spectrum continues to be available for pub-*
25 *lic safety services; and*

1 (F) otherwise further the public interest;

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

5 (A) disrupt the operations of existing spec-
6 trum licensees;

7 (B) alter existing spectrum allocation proce-
8 dures;

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

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

14 (E) prevent or discourage the allocation of
15 spectrum to meet the current or future needs of
16 public safety services; or

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

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

23 (A) funding spectrum management, plan-
24 ning, monitoring, and enforcement and other ac-
25 tivities of the Federal Communications Commis-

1 *sion, the National Telecommunications and In-*
2 *formation Administration, and other Federal*
3 *agencies aimed at increasing the efficiency and*
4 *effectiveness of spectrum use, facilitating the in-*
5 *troduction of new spectrum-based technologies*
6 *and services, and enhancing the international*
7 *competitiveness of the United States and the*
8 *ability of American companies to enter new*
9 *markets; and*

10 *(B) extending the reach of public radio and*
11 *television to underserved areas of the United*
12 *States and underserved groups of Americans and*
13 *enhancing the ability of public telecommuni-*
14 *cations to deliver needed original, high-quality*
15 *public service programming; and*

16 *(13) because commercial mobile services require*
17 *a Federal license and the Federal Government is at-*
18 *tempting to promote competition for such services,*
19 *and because providers of such services do not exercise*
20 *market power vis-a-vis telephone exchange service car-*
21 *riers and State regulation can be a barrier to the de-*
22 *velopment of competition in this market, uniform na-*
23 *tional policy is necessary and in the public interest.*

1 **SEC. 3. NATIONAL SPECTRUM PLANNING.**

2 (a) *PLANNING ACTIVITIES.*—The Assistant Secretary
3 of Commerce for Communications and Information and the
4 Chairman of the Commission shall meet, at least bian-
5 nually, to conduct joint spectrum planning with respect to
6 the following issues:

7 (1) the future spectrum requirements for public
8 and private uses, including State and local govern-
9 ment public safety agencies;

10 (2) the spectrum allocation actions necessary to
11 accommodate those uses; and

12 (3) actions necessary to promote the efficient use
13 of the spectrum, including spectrum management
14 techniques to promote increased shared use of the
15 spectrum that does not cause harmful interference, as
16 a means of increasing commercial access.

17 (b) *REPORT ON PLANNING ACTIVITIES.*—Not later
18 than 24 months after the date of enactment of this Act, the
19 Assistant Secretary of Commerce for Communications and
20 Information and the Chairman of the Commission shall
21 submit a joint report to the Committee on Energy and Com-
22 merce of the House of Representatives and the Committee
23 on Commerce, Science, and Transportation of the Senate
24 on the joint spectrum planning activities conducted under
25 subsection (a) and recommendations for action developed
26 pursuant to such activities. The report shall contain rec-

1 *ommendations for the reform of the process of allocating*
2 *spectrum between Federal uses and non-Federal uses.*

3 *(c) PROCEDURES TO ENSURE OPPORTUNITY FOR MI-*
4 *NORITY-OWNED BUSINESSES AND SMALL BUSINESSES.—*
5 *The Commission shall develop procedures to ensure that mi-*
6 *nority-owned businesses and small businesses are given the*
7 *opportunity to provide spectrum-based services. In develop-*
8 *ing such procedures, the Commission shall consider the use*
9 *of tax certificates and bidding preferences.*

10 *(d) STUDY ON SPECTRUM NEEDS OF PUBLIC SAFETY*
11 *AGENCIES.—The Commission shall complete and submit to*
12 *Congress, not later than 18 months after the date of enact-*
13 *ment of this Act, a study of current and future spectrum*
14 *needs of State and local government public safety agencies*
15 *through the year 2010, and a specific plan to satisfy those*
16 *spectrum needs.*

17 **SEC. 4. RECOMMENDATIONS FOR REALLOCATION OF CER-**
18 **TAIN FREQUENCIES.**

19 *(a) IDENTIFICATION REQUIRED.—For purposes of*
20 *reallocation, the Secretary shall identify frequencies that—*

21 *(1) are allocated on a primary basis for Federal*
22 *Government use;*

23 *(2) are not required for the present or identifi-*
24 *able future needs of the Federal Government;*

1 (3) can feasibly be made available, as of the date
2 of such identification or at any time during the next
3 15 years, for use under the Act (other than for Fed-
4 eral Government stations under section 305 of the
5 Act) without resulting in costs to the Federal Govern-
6 ment, or loss of services or benefits to the public, that
7 are excessive in relation to the benefits to the public
8 that may be provided by non-Federal licensees; and

9 (4) are most likely to have the greatest potential
10 for productive uses and public benefits under the Act
11 if allocated for commercial uses.

12 (b) *MINIMUM AMOUNT OF SPECTRUM REC-*
13 *OMMENDED.*—

14 (1) *OVERALL RECOMMENDATION.*—In accordance
15 with the provisions of this section, the Secretary shall
16 recommend for reallocation, for use other than by
17 Federal Government stations under section 305 of the
18 Act (47 U.S.C. 305), at least 200 megahertz of fre-
19 quencies identified under subsection (a) that are lo-
20 cated below 5 gigahertz. At least one-half of such fre-
21 quencies shall be located below 3 gigahertz.

22 (2) *MIXED USES PERMITTED TO BE COUNTED.*—
23 Among the frequencies recommended under this sec-
24 tion for reallocation, the Secretary may include fre-
25 quencies and frequency bands that are to be partially

1 *retained for use by Federal Government stations but*
2 *that are also recommended to be reallocated under the*
3 *Act for use by non-Federal stations, except that—*

4 *(A) such mixed-use frequencies and fre-*
5 *quency bands may not count toward more than*
6 *one-half of the 200 megahertz minimum required*
7 *by paragraph (1);*

8 *(B) such mixed-use frequencies and fre-*
9 *quency bands may not be so counted unless the*
10 *assignments of the frequencies to Federal Govern-*
11 *ment stations under section 305 of the Act (47*
12 *U.S.C. 305) are limited by geographic area, by*
13 *time, or by other means so as to guarantee that*
14 *the potential use to be made by such Federal*
15 *Government stations is substantially less (as*
16 *measured by geographic area, time, or otherwise)*
17 *than the potential use to be made by non-Federal*
18 *stations; and*

19 *(C) the operational sharing permitted under*
20 *this paragraph shall be subject to coordination*
21 *procedures that the Commission and the Sec-*
22 *retary shall jointly establish and implement to*
23 *ensure against harmful interference.*

24 *(c) CONSIDERATION OF CRITERIA FOR IDENTIFICA-*
25 *TION.—*

1 (1) *NEEDS OF THE FEDERAL GOVERNMENT.*—In
2 *determining whether a frequency meets the criteria*
3 *specified in subsection (a)(2), the Secretary shall—*

4 (A) *consider whether the frequency is used*
5 *to provide a communications service that is or*
6 *could be made available from a commercial car-*
7 *rier or other vendor;*

8 (B) *seek to promote—*

9 (i) *the maximum practicable reliance*
10 *on commercially available substitutes;*

11 (ii) *the sharing of frequencies (as per-*
12 *mitted under subsection (b)(2));*

13 (iii) *the development and use of new*
14 *communications technologies; and*

15 (iv) *the use of nonradiating commu-*
16 *nications systems where practicable; and*

17 (C) *seek to avoid—*

18 (i) *serious degradation of Federal Gov-*
19 *ernment services and operations;*

20 (ii) *excessive costs to the Federal Gov-*
21 *ernment and users of Federal Government*
22 *services; and*

23 (iii) *excessive disruption of existing use*
24 *of Federal Government frequencies by ama-*
25 *teur radio licensees.*

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

4 (A) assume that the frequency will be as-
5 signed by the Commission under section 303 of
6 the Act (47 U.S.C. 303) within 15 years;

7 (B) assume reasonable rates of scientific
8 progress and growth of demand for telecommuni-
9 cations services;

10 (C) seek to include frequencies which can be
11 used to stimulate the development of new tech-
12 nologies; and

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

16 (3) *COMMERCIAL USE.*—In determining whether
17 a frequency meets the criteria specified in subsection
18 (a)(4), the Secretary shall consider—

19 (A) the extent to which equipment is avail-
20 able that is capable of utilizing such frequency;

21 (B) the proximity of frequencies that are al-
22 ready assigned for commercial or other non-Fed-
23 eral use;

1 (C) *the extent to which, in general, commercial users could share the frequency with amateur radio licensees; and*

2
3
4 (D) *the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.*

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6
7
8 (4) *OTHER USES.—*

9 (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.*

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16 (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 adversely affect the reliability of its power system.*

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

7 (d) *PROCEDURE FOR IDENTIFICATION OF*
8 *REALLOCABLE BANDS OF FREQUENCIES.*—

9 (1) *REPORT IDENTIFYING 30 MEGAHERTZ FOR*
10 *IMMEDIATE REALLOCATION.*—Within 6 months after
11 *the date of enactment of this Act, the Secretary shall*
12 *prepare and submit to the President and the Congress*
13 *a report that recommends for immediate reallocation*
14 *no less than 30 megahertz of frequencies identified*
15 *under subsection (a). None of the frequencies covered*
16 *by such report may be allocated for mixed use as de-*
17 *scribed in subsection (b)(2). Not less than one-half of*
18 *such frequencies shall be located below 3 gigahertz.*

19 (2) *PRELIMINARY REPORT ON OTHER*
20 *REALLOCABLE FREQUENCIES.*—Within 6 months after
21 *the date of enactment of this Act, the Secretary shall*
22 *prepare, make publicly available, and submit to the*
23 *President and the Congress a preliminary report that*
24 *recommends for reallocation at least 170 megahertz of*
25 *frequencies identified under subsection (a), other than*

1 *those recommended for immediate reallocation under*
2 *paragraph (1).*

3 (3) *PUBLIC COMMENT; CHANGES TO REPORT.—*
4 *The Secretary shall receive public comment on the*
5 *preliminary report required by paragraph (2) and*
6 *shall, based upon the comments, make such changes to*
7 *the report as are warranted to meet the objectives of*
8 *this section.*

9 (4) *DIRECT DISCUSSIONS.—The Secretary shall*
10 *encourage and provide opportunity for direct discus-*
11 *sions among commercial representatives and Federal*
12 *Government users of the spectrum to aid the Sec-*
13 *retary in determining which frequencies to rec-*
14 *ommend for reallocation. The Secretary shall provide*
15 *notice to the public of any such discussions, including*
16 *the name or names of any businesses or other persons*
17 *represented in such discussions, and shall provide the*
18 *public with an opportunity to comment on the results*
19 *of any such negotiations prior to the submission of*
20 *the final report required by paragraph (5).*

21 (5) *FINAL REPORT ON OTHER REALLOCABLE*
22 *FREQUENCIES.—Within 18 months after the date of*
23 *enactment of this Act, the Secretary shall prepare and*
24 *submit to the President and the Congress a final re-*
25 *port that recommends the reallocation of at least 170*

1 *megahertz of frequencies as described in paragraph*
2 *(2). Not less than one-half of such frequencies shall be*
3 *located below 3 gigahertz.*

4 *(6) LIMITATION ON REALLOCATION.—None of the*
5 *frequencies recommended for reallocation in the re-*
6 *ports required by this subsection shall have been rec-*
7 *ommended, prior to the date of enactment of this Act,*
8 *for reallocation to non-Federal use by international*
9 *agreement.*

10 *(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The*
11 *Secretary shall, as part of the reports required by para-*
12 *graphs (1) and (2) of subsection (d), include a timetable*
13 *that recommends dates by which the President shall with-*
14 *draw or limit assignments of the frequencies specified in*
15 *the reports. In setting the recommended effective dates, the*
16 *Secretary shall—*

17 *(1) consider the need to reallocate frequencies as*
18 *early as possible, taking into account the require-*
19 *ments of section 6;*

20 *(2) consider the useful remaining life of equip-*
21 *ment that has been purchased or contracted for pur-*
22 *chase to operate on identified frequencies;*

23 *(3) consider the need to coordinate frequency use*
24 *with other nations; and*

1 (4) take into account the relationship between the
2 costs to the Federal Government of changing to dif-
3 ferent frequencies and the benefits that may be ob-
4 tained from commercial and other non-Federal uses of
5 the reassigned frequencies.

6 **SEC. 5. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO**
7 **FEDERAL GOVERNMENT STATIONS.**

8 (a) *IN GENERAL.*—The President shall—

9 (1) within 12 months after receipt of the report
10 required by section 4(d)(1), withdraw the assignment
11 to a Federal Government station of any frequency in
12 the frequencies recommended by that report for imme-
13 diate reallocation;

14 (2) by the effective date recommended by the Sec-
15 retary under section 4(e) (except as provided in sub-
16 section (b)(4) of this section), withdraw or limit the
17 assignment to a Federal Government station of any
18 frequency which the report required by section 4(d)(3)
19 recommends be reallocated or made available for
20 mixed use on such recommended effective date;

21 (3) assign or reassign other frequencies to Fed-
22 eral Government stations as necessary to adjust to
23 such withdrawal or limitation of assignments; and

1 (4) *transmit a notice and description to the*
2 *Commission and each House of Congress of the ac-*
3 *tions taken under this subsection.*

4 (b) *EXCEPTIONS.*—

5 (1) *AUTHORITY TO SUBSTITUTE.*—*If the Presi-*
6 *dent determines that a circumstance described in*
7 *paragraph (2) exists, the President—*

8 (A) *may substitute an alternative frequency*
9 *for the frequency that is subject to such deter-*
10 *mination and withdraw (or limit) the assign-*
11 *ment of that alternative frequency in the manner*
12 *required by subsection (a); and*

13 (B) *shall submit a statement of the reasons*
14 *for taking the action described in subparagraph*
15 *(A) to the Committee on Energy and Commerce*
16 *of the House of Representatives and the Commit-*
17 *tee on Commerce, Science, and Transportation of*
18 *the Senate.*

19 (2) *GROUNDS FOR SUBSTITUTION.*—*Each of the*
20 *following subparagraphs describes a circumstance re-*
21 *ferred to in paragraph (1):*

22 (A) *The reassignment would seriously*
23 *jeopardize the national defense interests of the*
24 *United States.*

1 (B) *The frequency proposed for reassign-*
2 *ment is uniquely suited to meeting important*
3 *governmental needs.*

4 (C) *The reassignment would seriously jeop-*
5 *ardize public health or safety.*

6 (D) *The reassignment will result in costs to*
7 *the Federal Government that are excessive in re-*
8 *lation to the benefits that may be obtained from*
9 *commercial or other non-Federal uses of the reas-*
10 *signed frequency.*

11 (E) *The reassignment will disrupt the exist-*
12 *ing use of a Federal Government band of fre-*
13 *quencies by amateur radio licensees.*

14 (3) *CRITERIA FOR SUBSTITUTED FRE-*
15 *QUENCIES.—For purposes of paragraph (1), a fre-*
16 *quency may not be substituted for a frequency identi-*
17 *fied and recommended under section 4 for*
18 *reallocation, unless the substituted frequency also*
19 *meets each of the criteria specified by section 4(a).*

20 (4) *DELAYS IN IMPLEMENTATION.—If the Presi-*
21 *dent determines that any action cannot be completed*
22 *by the effective date recommended by the Secretary*
23 *pursuant to section 4(e), or that such an action by*
24 *such date would result in a frequency being unused*

1 *as a consequence of the Commission's plan under sec-*
2 *tion 6(b), the President may—*

3 *(A) withdraw or limit the assignment to*
4 *Federal Government stations on a later date that*
5 *is consistent with such plan, except that the*
6 *President shall notify each Committee specified*
7 *in paragraph (1)(B) and the Commission of the*
8 *reason that withdrawal or limitation at a later*
9 *date is required; or*

10 *(B) substitute alternative frequencies pursu-*
11 *ant to this subsection.*

12 *(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED*
13 *TO THE FEDERAL GOVERNMENT.—*

14 *(1) REIMBURSEMENT AUTHORIZED.—Any Fed-*
15 *eral agency, or non-Federal entity operating on behalf*
16 *of a Federal agency, whose operation is displaced*
17 *from a frequency pursuant to this section may be re-*
18 *imbursed, from revenues received pursuant to section*
19 *8, not more than the incremental costs such agency or*
20 *entity incurs (in such amounts as are provided in ad-*
21 *vance in an appropriations Act) that are directly at-*
22 *tributable to the displacement from the frequency. The*
23 *estimates of these costs shall be prepared by the af-*
24 *ected agency, in consultation with the Department of*
25 *Commerce.*

1 (2) *AUTHORIZATION OF APPROPRIATIONS.—*

2 *There are authorized to be appropriated to the af-*
3 *fecting Federal agencies such sums as may be nec-*
4 *essary to carry out the purposes of this subsection.*

5 (d) *EXISTING AUTHORITY RETAINED.—*

6 (1) *ADDITIONAL REALLOCATION.—Nothing in*
7 *this Act prevents or limits additional reallocation of*
8 *spectrum from the Federal Government to the com-*
9 *mercial or other sectors.*

10 (2) *IMPLEMENTATION OF NEW TECHNOLOGIES*
11 *AND SERVICES.—Notwithstanding any other provision*
12 *of this Act—*

13 (A) *the Secretary may at any time allow*
14 *frequencies allocated on a primary basis for Fed-*
15 *eral Government use to be used by non-Federal*
16 *licensees on a mixed-use basis for the purpose of*
17 *facilitating the prompt implementation of new*
18 *technologies or services; and*

19 (B) *the Commission shall expedite and give*
20 *priority to the allocation of any frequencies iden-*
21 *tified pursuant to subparagraph (A), and any*
22 *associated licensing.*

1 **SEC. 6. ALLOCATION AND ASSIGNMENT OF FREQUENCIES**
2 **BY THE COMMISSION.**

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

10 (b) *ALLOCATION AND ASSIGNMENT OF REMAINING*
11 *AVAILABLE FREQUENCIES.*—*With respect to the frequencies*
12 *made available for reallocation pursuant to section 5(a)(2),*
13 *the Commission shall, not later than 1 year after receipt*
14 *of the final report identified in section 4(d)(4), prepare, in*
15 *consultation with the Assistant Secretary of Commerce for*
16 *Communications and Information, submit to the President*
17 *and the Congress, and implement, a plan for the allocation*
18 *and assignment under the Act of such frequencies. Such*
19 *plan shall—*

20 (1) *not propose the immediate allocation and as-*
21 *signment of all such frequencies but, taking into ac-*
22 *count the timetable recommended by the Secretary*
23 *pursuant to section 4(e), shall propose—*

24 (A) *gradually to allocate and assign the fre-*
25 *quencies remaining, after making the reservation*
26 *required by subparagraph (B), over the course of*

1 10 years beginning on the date of submission of
2 such plan; and

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

6 (2) contain appropriate provisions to ensure the
7 availability of frequencies for (A) new technologies
8 and services in accordance with the policies of section
9 7 of the Act (47 U.S.C. 157) and (B) the safety of life
10 and property in accordance with the policies of sec-
11 tion 1 of the Act (47 U.S.C. 151);

12 (3) address (A) the feasibility of reallocating por-
13 tions of the spectrum from current commercial and
14 other non-Federal uses to provide for more efficient
15 use of the spectrum, and (B) innovation and market-
16 place developments that may affect the relative effi-
17 ciencies of different spectrum allocations;

18 (4) not prevent the Commission from allocating
19 frequencies, and assigning licenses to use frequencies,
20 not included in the plan; and

21 (5) not preclude the Commission from making
22 changes to the plan in future proceedings.

23 (c) AMENDMENT TO THE ACT.—Section 303 of the Act
24 (47 U.S.C. 303) is amended by adding at the end the follow-
25 ing new subsection:

1 “(v) Have authority to assign licenses to use the fre-
2 quencies reallocated from United States Government use to
3 non-United States Government use pursuant to the Emerg-
4 ing Telecommunications Technologies Act of 1993; except
5 that any such assignment shall be made expressly subject
6 to the right of the President to reclaim such frequencies
7 under section 7 of such Act.”.

8 **SEC. 7. AUTHORITY TO RECLAIM REASSIGNED FRE-**
9 **QUENCIES.**

10 (a) *AUTHORITY OF PRESIDENT.*—Subsequent to the
11 withdrawal of assignment to Federal Government stations
12 pursuant to section 5, the President may reclaim reassigned
13 frequencies for reassignment to Federal Government sta-
14 tions in accordance with this section.

15 (b) *PROCEDURE FOR RECLAIMING FREQUENCIES.*—

16 (1) *UNALLOCATED FREQUENCIES.*—If the fre-
17 quencies to be reclaimed have not been allocated or as-
18 signed by the Commission pursuant to the Act, the
19 President shall follow the procedures for substitution
20 of frequencies established by section 5(b) of this Act.

21 (2) *ALLOCATED FREQUENCIES.*—If the fre-
22 quencies to be reclaimed have been allocated or as-
23 signed by the Commission, the President shall follow
24 the procedures for substitution of frequencies estab-

1 *lished by section 5(b) of this Act, except that the noti-*
2 *fication required by section 5(b)(1)(B) shall include—*

3 *(A) a timetable to accommodate an orderly*
4 *transition for displaced licensees to obtain new*
5 *frequencies and equipment necessary for its utili-*
6 *zation; and*

7 *(B) an estimate of the cost of displacing*
8 *spectrum uses licensed by the Commission.*

9 *(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIA-*
10 *TIONS AUTHORIZED.—The Federal Government shall bear*
11 *all costs of reclaiming frequencies pursuant to this section,*
12 *including the cost of equipment which is rendered unusable,*
13 *the cost of relocating operations to a different frequency,*
14 *and any other costs that are directly attributable to the re-*
15 *claiming of the frequency pursuant to this section. There*
16 *are authorized to be appropriated such sums as may be nec-*
17 *essary to carry out the purposes of this section.*

18 *(d) EFFECTIVE DATE OF RECLAIMED FRE-*
19 *QUENCIES.—The Commission shall not withdraw licenses*
20 *for any reclaimed frequencies until the end of the fiscal year*
21 *following the fiscal year in which the President's notifica-*
22 *tion is received.*

23 *(e) EFFECT ON OTHER LAW.—Nothing in this section*
24 *shall be construed to limit or otherwise affect the authority*

1 *of the President under section 706 of the Act (47 U.S.C.*
2 *606).*

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

4 (a) *COMPETITIVE BIDDING TEST.*—

5 (1) *IN GENERAL.*—

6 (A) *FIVE-YEAR AUTHORIZATION.*—*The Com-*
7 *mission shall, during fiscal years 1994 through*
8 *1998, use the competitive bidding process author-*
9 *ized under the amendment made by subsection*
10 *(b) to grant all radio spectrum licenses for which*
11 *two or more mutually exclusive applications*
12 *have been filed, including the 200 megahertz of*
13 *spectrum made available to the Commission*
14 *under this Act, and including the licenses issued*
15 *for a personal communications service estab-*
16 *lished pursuant to the proceeding entitled*
17 *“Amendment to the Commission’s Rules to Es-*
18 *tablish New Personal Communications Services”,*
19 *or any successor proceeding, except for those li-*
20 *censes identified in subparagraphs (A) through*
21 *(E) of section 309(j)(4) of the Act and those li-*
22 *censes that the Commission determines should in*
23 *the public interest be issued by comparative*
24 *hearing under section 309(a) through (f) of the*
25 *Act.*

1 (B) *EXPIRATION OF REQUIREMENT.*—The
2 requirement of subparagraph (A) shall either (i)
3 expire upon a determination by the Secretary of
4 the Treasury that competitive bidding has re-
5 sulted in or is reasonably expected to result in
6 the receipt of \$7,200,000,000 by the end of fiscal
7 year 1998, or (ii) at the end of fiscal year 1998,
8 whichever is earlier.

9 (C) *REPORT TO PRESIDENT AND CON-*
10 *GRESS.*—The Commission shall prepare, in con-
11 sultation with the Assistant Secretary of Com-
12 merce for Communications and Information,
13 and submit to the President and the Congress,
14 not later than March 31, 1997, and March 31,
15 1999, reports on the use of competitive bidding
16 under subparagraph (A). Such reports shall ex-
17 amine, in addition to any other matters deemed
18 appropriate by the Commission, whether and to
19 what extent—

20 (i) *competitive bidding significantly*
21 *improved the efficiency and effectiveness of*
22 *the process for granting radio spectrum li-*
23 *censes;*

24 (ii) *competitive bidding facilitated the*
25 *introduction of new spectrum-based tech-*

1 *nologies and the entry of new companies*
2 *into the telecommunications market;*

3 *(iii) the needs of rural spectrum users*
4 *were adequately addressed in the competi-*
5 *tive bidding process;*

6 *(iv) small businesses and minority-*
7 *owned businesses were able to participate*
8 *successfully in the competitive bidding proc-*
9 *ess; and*

10 *(v) statutory changes are needed to im-*
11 *prove the competitive bidding process.*

12 *(2) RETENTION OF REVENUES.—Notwithstand-*
13 *ing paragraph (6) of section 309(j) of the Act, as*
14 *added by this Act, the salaries and expenses account*
15 *of the Commission shall retain as an offsetting collec-*
16 *tion such sums as may be necessary from the receipts*
17 *received pursuant to such section for the costs of de-*
18 *veloping and implementing the program required by*
19 *subsection (a)(1)(A). Such offsetting collections shall*
20 *be available for obligation subject to the terms and*
21 *conditions of the receiving appropriations account,*
22 *and shall be deposited in such accounts on a quar-*
23 *terly basis.*

1 (b) *COMPETITIVE BIDDING AUTHORIZATION.*—Section
2 309 of the Act (47 U.S.C. 309) is amended by adding at
3 the end the following new subsection:

4 “(j)(1) Subject to the exemptions and conditions set
5 forth in the other provisions of this subsection, if there are
6 two or more mutually exclusive applications for any con-
7 struction permit or initial license which will involve any
8 use of the electromagnetic spectrum, the Commission shall
9 have authority to use competitive bidding in the granting
10 of such construction permit or initial license.

11 “(2)(A) The Commission shall, within 6 months after
12 the date of enactment of the Emerging Telecommunications
13 Technologies Act of 1993 and following public notice and
14 comment proceedings, issue rules establishing competitive
15 bidding procedures under this subsection. Such rules shall
16 include safeguards to protect the public interest in the use
17 of the spectrum and shall ensure the opportunity for suc-
18 cessful participation by small businesses and minority-
19 owned businesses.

20 “(B)(i) In the rules issued pursuant to subparagraph
21 (A), the Commission shall require potential bidders to file
22 a first-stage application indicating an intent to participate
23 in the competitive bidding process and containing such
24 other information as the Commission finds necessary. After
25 conducting the bidding, the Commission shall require the

1 *winning bidder to file a second-stage application. After de-*
2 *termining that such application is acceptable for filing and*
3 *that the winning bidder is qualified as described in clause*
4 *(ii), the Commission shall grant the permit or license to*
5 *the winning bidder.*

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

12 “(iii) *Each participant in the competitive bidding*
13 *process shall be subject to the schedule of charges contained*
14 *in section 8.*

15 “(C) *In the rules issued pursuant to subparagraph (A),*
16 *the Commission, in addition to other actions it finds nec-*
17 *essary to implement competitive bidding fairly and effec-*
18 *tively, shall—*

19 “(i) *establish the method of bidding (including*
20 *but not limited to sealed bids) and the basis for pay-*
21 *ment (such as installment or lump sum payments,*
22 *royalties on future income, a combination thereof, or*
23 *other reasonable forms of payment specified by the*
24 *Commission); and*

1 “(ii) establish other appropriate conditions on
2 such permits and licenses that serve the public inter-
3 est.

4 “(3)(A)(i) If the Commission decides to use competitive
5 bidding to grant two or more national, regional, or local
6 licenses per market in a terrestrial service that will compete
7 with telephone exchange service provided by a qualified
8 common carrier, the Commission shall designate one such
9 license per market as a rural program license.

10 “(ii) The Commission shall define the geographic
11 boundaries of the rural program license to correspond to
12 the geographic area of the telephone exchange service by
13 which the qualified common carrier became eligible for the
14 rural program license under subparagraph (E)(ii).

15 “(B)(i) Except as provided in subparagraph (D), the
16 Commission shall either grant a rural program license to
17 the qualified common carrier providing telephone exchange
18 service in the area covered by such license, or grant a license
19 to a consortium of such qualified carriers.

20 “(ii) No qualified common carrier that receives a rural
21 program license shall be eligible to—

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

24 “(II) own any equity interest in, become a credi-
25 tor of, or otherwise become affiliated with any entity

1 *that holds a license to provide the same service in*
2 *such area.*

3 *“(iii) Any qualified common carrier that receives a*
4 *rural program license shall (I) provide to all other licensees*
5 *providing the same service in such area the same quality*
6 *of access to its wire network that it provides itself, and (II)*
7 *shall interconnect its wireless service with the wireless serv-*
8 *ice provided by another licensee providing the same service*
9 *on the same frequency in a different geographic area. Such*
10 *other licensee shall provide an equivalent interconnection*
11 *with the wireless service of such rural program licensee.*

12 *“(iv) The Commission may establish other rules or*
13 *conditions for the award of a rural program license, consist-*
14 *ent with the intent of this paragraph.*

15 *“(C) Upon the grant of a rural program license to a*
16 *qualified common carrier, such carrier shall pay a fee (in*
17 *lump sum or installment payments, in royalties on future*
18 *income, in a combination thereof, or on any other reason-*
19 *able basis specified by the Commission) equal to the value*
20 *of such license. The value of such license shall be the average*
21 *of the amounts paid by persons granted licenses through*
22 *competitive bidding to provide the same service in such*
23 *area, except that the Commission shall determine the value*
24 *of such license by any reasonable means when the geo-*
25 *graphic area served by the rural program license is not con-*

1 *gruent with the geographic area served by the other license*
2 *or licenses.*

3 “(D) *If no qualified common carrier applies for a*
4 *rural program license in a particular market and the Com-*
5 *mission awards the non-rural program licenses through*
6 *competitive bidding, the rural program shall not apply for*
7 *that particular market and the Commission shall use com-*
8 *petitive bidding to award the licenses for the former rural*
9 *program areas, either separately or as part of larger license*
10 *areas.*

11 “(E) *For purposes of this paragraph—*

12 “(i) *the term ‘rural area’ means any geographic*
13 *area that does not include either—*

14 “(I) *any incorporated place of 10,000 in-*
15 *habitants or more, or any part thereof; or*

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

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

23 “(I) *either provides telephone exchange serv-*
24 *ice by wire in a rural area, provides telephone*
25 *exchange service by wire to less than 10,000 sub-*

1 scribers, or is a telephone utility whose income
2 accrues to a State or political subdivision there-
3 of; and

4 “(II) submits an application for a rural
5 program license that meets the standards estab-
6 lished by the Commission to determine ability to
7 provide the service covered by the license.

8 “(F) The provisions of subparagraph (A)(ii) do not
9 limit the Commission’s discretion to determine, for licenses
10 issued other than under this subsection, the size of any mar-
11 ket area or the number of licensees for any service.

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

14 “(A) because of the need to avoid excessive service
15 disruption, extend to license renewals and modifica-
16 tions;

17 “(B) because of the essential services they pro-
18 vide, extend to licenses reserved for the United States
19 Government and State or local government entities;

20 “(C) because of their public service obligations,
21 extend to licenses to provide amateur operator serv-
22 ices, over-the-air terrestrial radio and television
23 broadcast services, public safety services, and radio
24 astronomy services;

1 “(D) because they do not involve mutually exclu-
2 sive applications, extend to private radio end-user li-
3 censes, including Specialized Mobile Radio Service
4 (SMRS), maritime, and aeronautical end-user li-
5 censes;

6 “(E) because of the need to avoid excessive serv-
7 ice disruption, extend to any license grant to a non-
8 Federal licensee being moved from its current fre-
9 quency assignment to a different one by the Commis-
10 sion in order to implement the goals and objectives
11 underlying the Emerging Telecommunications Tech-
12 nologies Act of 1993; and

13 “(F) extend to any other service, class of services, or
14 assignments that the Commission determines, after conduct-
15 ing public notice and comment proceedings, should be ex-
16 empt from competitive bidding because of public interest
17 factors warranting an exemption to the extent the Commis-
18 sion determines the use of competitive bidding would jeop-
19 ardize appropriate treatment of those factors.

20 “(5) No provision of this subsection or of the Emerging
21 Telecommunications Technologies Act of 1993 shall be con-
22 strued, in any way, to—

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

1 “(B) allow the Commission to consider potential
2 revenues from competitive bidding when making deci-
3 sions concerning spectrum allocation;

4 “(C) diminish the authority of the Commission
5 under the other provisions of this Act to regulate or
6 reclaim spectrum licenses;

7 “(D) grant any right to a spectrum licensee dif-
8 ferent from the rights awarded to licensees who ob-
9 tained their license through assignment methods other
10 than competitive bidding; or

11 “(E) prevent the Commission from awarding li-
12 censes to those persons who make significant contribu-
13 tions to the development of a new telecommunications
14 service or technology.

15 “(6) Moneys received from competitive bidding pursu-
16 ant to this subsection shall be deposited in the general fund
17 of the Treasury. A license or permit issued by the Commis-
18 sion under this subsection shall not be treated as the prop-
19 erty of the licensee for property tax purposes, or other simi-
20 lar tax purposes, by any State or local government entity.”.

21 **SEC. 9. REGULATORY PARITY.**

22 (a) AMENDMENT.—Section 332 of the Act (47 U.S.C.
23 332) is amended—

24 (1) by striking “PRIVATE LAND” from the
25 heading of the section; and

1 (2) by amending subsection (c) to read as fol-
2 lows:

3 “(c)(1)(A) A person engaged in the provision of com-
4 mercial mobile services shall, insofar as such person is so
5 engaged, be treated as a common carrier for purposes of
6 this Act, except that the Commission may waive the require-
7 ments of sections 203, 204, 205, and 214, and the 30-day
8 notice provision of section 309(a), for commercial mobile
9 services and such other provisions of title II as the Commis-
10 sion may, consistent with the public interest, specify by
11 rule. In prescribing any such rule, the Commission may
12 not waive for commercial mobile services the requirements
13 of section 201, 202, 206, 208, 209, 215(c), 216, 217, 220(d)
14 or (e), 223, 225, 226(a), (b), (c), (d), (e), (f), (g), or (i),
15 227, or 228, or any other provision that is necessary in
16 order to ensure that the charges, practices, classifications,
17 or regulations for or in connection with commercial mobile
18 services are just and reasonable and are not unjustly or un-
19 reasonably discriminatory or that is otherwise in the public
20 interest.

21 “(B) Upon reasonable request of any person providing
22 commercial mobile service, the Commission shall order a
23 common carrier to establish physical connections with such
24 service pursuant to section 201. Except to the extent that
25 the Commission is required to respond to such a request,

1 *this subparagraph shall not be construed as a limitation*
2 *or expansion of the Commission's authority to order inter-*
3 *connection under this Act.*

4 “(2) *A person engaged in private land mobile service*
5 *shall not, insofar as such person is so engaged, be treated*
6 *as a common carrier for any purpose under this Act. A*
7 *common carrier shall not provide any dispatch service on*
8 *any frequency allocated for common carrier service, except*
9 *to the extent such dispatch service is provided on stations*
10 *licensed in the domestic public land mobile radio service*
11 *before January 1, 1982. The Commission may by regulation*
12 *terminate, in whole or in part, the prohibition contained*
13 *in the preceding sentence if the Commission determines that*
14 *such termination will serve the public interest.*

15 “(3)(A) *Notwithstanding sections 2(b) and 221(b), in*
16 *any State in which three or more providers of commercial*
17 *mobile voice services are licensed by the Commission and*
18 *make such services available in the same geographic area*
19 *anywhere in the State, no State or local government shall*
20 *have any authority to regulate the entry of or the rates*
21 *charged by any commercial mobile service or any private*
22 *land mobile service, except that this paragraph shall not*
23 *prohibit a State from regulating the other terms and condi-*
24 *tions of commercial mobile services. Nothing in this sub-*
25 *paragraph shall exempt providers of commercial mobile*

1 *services (where such services are a substitute for land line*
2 *telephone exchange service for a substantial portion of the*
3 *communications within such State) from requirements im-*
4 *posed by a State commission on all providers of tele-*
5 *communications services necessary to ensure the continued*
6 *availability of telephone exchange service at affordable*
7 *rates.*

8 “(B) Notwithstanding subparagraph (A), a State may
9 petition the Commission for authority to regulate the rates
10 for any commercial mobile service if such State dem-
11 onstrates that (i) such service is a substitute for land line
12 telephone exchange service for a substantial portion of the
13 communications within such State, or (ii) market condi-
14 tions with respect to such services fail to protect subscribers
15 adequately from unjust and unreasonable rates or rates that
16 are unjustly or unreasonably discriminatory. The Commis-
17 sion shall provide reasonable opportunity for public com-
18 ment in response to such petition, and shall, within 9
19 months after the date of its submission, grant or deny such
20 petition. If the Commission grants such petition, the Com-
21 mission shall authorize the State to exercise under State
22 law such authority over rates, for such periods of time, as
23 the Commission deems necessary to ensure that such rates
24 are just and reasonable and not unjustly or unreasonably
25 discriminatory.

1 “(4) Nothing in this subsection shall be construed to
2 alter or affect the regulatory treatment required by title IV
3 of the Communications Satellite Act of 1962 of the corpora-
4 tion authorized by title III of such Act.

5 “(5) The Commission shall determine whether the pro-
6 vision of space segment capacity by satellite systems to pro-
7 viders of commercial mobile services shall be treated as com-
8 mon carriage.

9 “(6) For purposes of this section—

10 “(A) the term ‘commercial mobile service’ means
11 any mobile service (as defined in section 3(n)) that
12 is provided for profit and makes interconnected serv-
13 ice available (i) to the public or (ii) to such broad
14 classes of eligible users as to be effectively available to
15 a substantial portion of the public;

16 “(B) the term ‘interconnected service’ means
17 service that is interconnected with the public switched
18 network (as such term is defined by regulation by the
19 Commission) or service for which interconnection
20 pursuant to paragraph (1)(B) is pending; and

21 “(C) the term ‘private land mobile service’
22 means any mobile service (as defined in section 3(n))
23 that is not a commercial mobile service under sub-
24 paragraph (A).”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) *DEFINITION OF MOBILE SERVICE.*—Section 3
2 of the Act (47 U.S.C. 153) is amended—

3 (A) in subsection (n)—

4 (i) by inserting “(1)” immediately
5 after “and includes”; and

6 (ii) by inserting immediately before the
7 period at the end the following: “, (2) a mo-
8 bile service which provides a regularly
9 interacting group of base, mobile, portable,
10 and associated control and relay stations
11 (whether licensed on an individual, coopera-
12 tive, or multiple basis) for private one-way
13 or two-way land mobile radio communica-
14 tions by eligible users over designated areas
15 of operation, and (3) any service for which
16 a license is required in a personal commu-
17 nications service established pursuant to the
18 proceeding entitled ‘Amendment to the Com-
19 mission’s Rules to Establish New Personal
20 Communications Services’ (GEN Docket No.
21 90–314; ET Docket No. 92–100), or any
22 successor proceeding; but such term does not
23 include any rural radio service as defined
24 by the Commission and does not include the
25 provision, by a local exchange carrier, of

1 *telephone exchange service by radio instead*
2 *of by wire”;* and

3 *(B) by striking subsection (gg).*

4 (2) *REGULATION OF INTRASTATE COMMUNICA-*
5 *TIONS.—Section 2(b) of the Act (47 U.S.C. 152(b)) is*
6 *amended by inserting “and section 332” immediately*
7 *after “inclusive,”.*

8 (c) *RULEMAKING SCHEDULE; EFFECTIVE DATE.—*

9 (1) *RULEMAKING REQUIRED.—Within 1 year*
10 *after the date of enactment of this Act, the Commis-*
11 *sion shall—*

12 (A) *issue such modifications or termi-*
13 *nations of its regulations concerning private*
14 *land mobile services as are necessary to imple-*
15 *ment the amendments made by subsection (a);*

16 (B) *make such other modifications of such*
17 *regulations as may be necessary to promote par-*
18 *ity in the regulatory treatment of providers of all*
19 *commercial mobile services that offer services*
20 *that are substantially similar; and*

21 (C) *include in such modifications and ter-*
22 *minations such provisions as are necessary to*
23 *provide for an orderly transition to the regu-*
24 *latory treatment required by such amendments.*

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by subsection (a) shall be effective 1 year after such*
3 *date of enactment, except that—*

4 (A) *section 332(c)(1)(A), as added by such*
5 *amendments, shall take effect upon such date of*
6 *enactment; and*

7 (B) *any person that provides private land*
8 *mobile services before such date of enactment*
9 *shall continue to be treated as a provider of pri-*
10 *vate land mobile service (other than for purposes*
11 *of determining the number of providers of com-*
12 *mercial mobile services under section*
13 *332(c)(3)(A)) until 3 years after such date of en-*
14 *actment.*

15 **SEC. 10. DEADLINES FOR PCS ORDERS AND LICENSING.**

16 *The Commission shall—*

17 (1) *within 180 days after the date of enactment*
18 *of this Act, issue a final report and order (A) in the*
19 *matter entitled “Redevelopment of Spectrum to En-*
20 *courage Innovation in the Use of New Telecommuni-*
21 *cations Technologies” (ET Docket No. 92–9); and (B)*
22 *in the matter entitled “Amendment of the Commis-*
23 *sion’s Rules to Establish New Personal Communica-*
24 *tions Services” (GEN Docket No. 90–314; ET Docket*
25 *No. 92–100); and*

1 (2) *within 270 days after such date of enact-*
2 *ment, commence issuing licenses and permits in the*
3 *personal communications service.*

4 **SEC. 11. DEFINITIONS.**

5 *As used in this Act:*

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

10 (2) *The term “assignment” means an authoriza-*
11 *tion given to a station licensee to use specific fre-*
12 *quencies or channels in a particular geographic area.*

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

20 (4) *The term “Commission” means the Federal*
21 *Communications Commission.*

22 (5) *The term “Secretary” means the Secretary of*
23 *Commerce.*

24 (6) *The term “the Act” means the Communica-*
25 *tions Act of 1934 (47 U.S.C. 151 et seq.).*

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S 335 RS—5

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