

**SUSPEND THE RULES AND PASS THE BILL, S. 2097, WITH AN
AMENDMENT**

**(The amendment strikes all after the enacting clause and inserts a
new text)**

106TH CONGRESS
2^D SESSION

S. 2097

AN ACT

To authorize loan guarantees in order to facilitate access to local television broadcast signals in unserved and underserved areas, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Launching Our Com-
5 munities’ Access to Local Television Act of 2000”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to facilitate access, on a
8 technologically neutral basis and by December 31, 2006,
9 to signals of local television stations for households located
10 in nonserved areas and underserved areas.



1 **SEC. 3. LOCAL TELEVISION LOAN GUARANTEE BOARD.**

2 (a) ESTABLISHMENT.—There is established the
3 LOCAL Television Loan Guarantee Board (in this Act re-
4 ferred to as the “Board”).

5 (b) MEMBERS.—

6 (1) IN GENERAL.—Subject to paragraph (2),
7 the Board shall consist of the following members:

8 (A) The Secretary of the Treasury, or the
9 designee of the Secretary.

10 (B) The Chairman of the Board of Gov-
11 ernors of the Federal Reserve System, or the
12 designee of the Chairman.

13 (C) The Secretary of Agriculture, or the
14 designee of the Secretary.

15 (D) The Secretary of Commerce, or the
16 designee of the Secretary.

17 (2) REQUIREMENT AS TO DESIGNEEES.—An in-
18 dividual may not be designated a member of the
19 Board under paragraph (1) unless the individual is
20 an officer of the United States pursuant to an ap-
21 pointment by the President, by and with the advice
22 and consent of the Senate.

23 (c) FUNCTIONS OF THE BOARD.—

24 (1) IN GENERAL.—The Board shall determine
25 whether or not to approve loan guarantees under
26 this Act. The Board shall make such determinations



1 consistent with the purpose of this Act and in ac-
2 cordance with this subsection and section 4.

3 (2) CONSULTATION AUTHORIZED.—

4 (A) IN GENERAL.—In carrying out its
5 functions under this Act, the Board shall con-
6 sult with such departments and agencies of the
7 Federal Government as the Board considers ap-
8 propriate, including the Department of Com-
9 merce, the Department of Agriculture, the De-
10 partment of the Treasury, the Department of
11 Justice, the Department of the Interior, the
12 Board of Governors of the Federal Reserve Sys-
13 tem, the Federal Communications Commission,
14 the Federal Trade Commission, and the Na-
15 tional Aeronautics and Space Administration.

16 (B) RESPONSE.—A department or agency
17 consulted by the Board under subparagraph (A)
18 shall provide the Board such expertise and as-
19 sistance as the Board requires to carry out its
20 functions under this Act.

21 (3) APPROVAL BY MAJORITY VOTE.—The deter-
22 mination of the Board to approve a loan guarantee
23 under this Act shall be by an affirmative vote of not
24 less than 3 members of the Board.



1 **SEC. 4. APPROVAL OF LOAN GUARANTEES.**

2 (a) **AUTHORITY TO APPROVE LOAN GUARANTEES.—**

3 Subject to the provisions of this section and consistent
4 with the purpose of this Act, the Board may approve loan
5 guarantees under this Act.

6 (b) **REGULATIONS.—**

7 (1) **REQUIREMENTS.—**The Administrator (as
8 defined in section 5), under the direction of and for
9 approval by the Board, shall prescribe regulations to
10 implement the provisions of this Act and shall do so
11 not later than 120 days after funds authorized to be
12 appropriated under section 11 have been appro-
13 priated in a bill signed into law.

14 (2) **ELEMENTS.—**The regulations prescribed
15 under paragraph (1) shall—

16 (A) set forth the form of any application to
17 be submitted to the Board under this Act;

18 (B) set forth time periods for the review
19 and consideration by the Board of applications
20 to be submitted to the Board under this Act,
21 and for any other action to be taken by the
22 Board with respect to such applications;

23 (C) provide appropriate safeguards against
24 the evasion of the provisions of this Act;

25 (D) set forth the circumstances in which
26 an applicant, together with any affiliate of an



1 applicant, shall be treated as an applicant for
2 a loan guarantee under this Act;

3 (E) include requirements that appropriate
4 parties submit to the Board any documents and
5 assurances that are required for the administra-
6 tion of the provisions of this Act; and

7 (F) include such other provisions con-
8 sistent with the purpose of this Act as the
9 Board considers appropriate.

10 (3) CONSTRUCTION.—(A) Nothing in this Act
11 shall be construed to prohibit the Board from requir-
12 ing, to the extent and under circumstances consid-
13 ered appropriate by the Board, that affiliates of an
14 applicant be subject to certain obligations of the ap-
15 plicant as a condition to the approval or mainte-
16 nance of a loan guarantee under this Act.

17 (B) If any provision of this Act or the applica-
18 tion of such provision to any person or entity or cir-
19 cumstance is held to be invalid by a court of com-
20 petent jurisdiction, the remainder of this Act, or the
21 application of such provision to such person or entity
22 or circumstance other than those as to which it is
23 held invalid, shall not be affected thereby.

24 (c) AUTHORITY LIMITED BY APPROPRIATIONS
25 ACTS.—The Board may approve loan guarantees under



1 this Act only to the extent provided for in advance in ap-
2 propriations Acts.

3 (d) REQUIREMENTS AND CRITERIA APPLICABLE TO
4 APPROVAL.—

5 (1) IN GENERAL.—The Board shall utilize the
6 underwriting criteria developed under subsection (g),
7 and any relevant information provided by the de-
8 partments and agencies with which the Board
9 consults under section 3, to determine which loans
10 may be eligible for a loan guarantee under this Act.

11 (2) PREREQUISITES.—In addition to meeting
12 the underwriting criteria under paragraph (1), a
13 loan may not be guaranteed under this Act unless—

14 (A) the loan is made to finance the acqui-
15 sition, improvement, enhancement, construction,
16 deployment, launch, or rehabilitation of the
17 means by which local television broadcast sig-
18 nals will be delivered to a nonserved area or un-
19 derserved area;

20 (B) the proceeds of the loan will not be
21 used for operating, advertising, or promotion
22 expenses, or for the acquisition of licenses for
23 the use of spectrum in any competitive bidding
24 under section 309(j) of the Communications
25 Act of 1934 (47 U.S.C. 309(j));



1 (C) the proposed project, as determined by
2 the Board in consultation with the National
3 Telecommunications and Information Adminis-
4 tration, is not likely to have a substantial ad-
5 verse impact on competition that outweighs the
6 benefits of improving access to the signals of a
7 local television station in a nonserved area or
8 underserved area and is commercially viable;

9 (D)(i) the loan—

10 (I) is provided by any entity engaged
11 in the business of commercial lending—

12 (aa) if the loan is made in ac-
13 cordance with loan-to-one-borrower
14 and affiliate transaction restrictions to
15 which the entity is subject under ap-
16 plicable law; or

17 (bb) if item (aa) does not apply,
18 the loan is made only to a borrower
19 that is not an affiliate of the entity
20 and only if the amount of the loan
21 and all outstanding loans by that enti-
22 ty to that borrower and any of its af-
23 filiates does not exceed 10 percent of
24 the net equity of the entity; or



1 (II) is provided by a nonprofit cor-
2 poration, including the National Rural
3 Utilities Cooperative Finance Corporation,
4 engaged primarily in commercial lending, if
5 the Board determines that such nonprofit
6 corporation has one or more issues of out-
7 standing long-term debt that is rated with-
8 in the highest 3 rating categories of a na-
9 tionally recognized statistical rating orga-
10 nization;

11 (ii) if the loan is provided by a lender de-
12 scribed in clause (i)(II) and the Board deter-
13 mines that the making of the loan by such lend-
14 er will cause a decline in such lender's debt rat-
15 ing as described in that clause, the Board at its
16 discretion may disapprove the loan guarantee
17 on this basis;

18 (iii) no loan may be made for purposes of
19 this Act by a governmental entity or affiliate
20 thereof, or by the Federal Agricultural Mort-
21 gage Corporation, or any institution supervised
22 by the Office of Federal Housing Enterprise
23 Oversight, the Federal Housing Finance Board,
24 or any affiliate of such entities;



1 (iv) any loan must have terms, in the judg-
2 ment of the Board, that are consistent in mate-
3 rial respects with the terms of similar obliga-
4 tions in the private capital market;

5 (v) for purposes of clause (i)(I)(bb), the
6 term “net equity” means the value of the total
7 assets of the entity, less the total liabilities of
8 the entity, as recorded under generally accepted
9 accounting principles for the fiscal quarter
10 ended immediately prior to the date on which
11 the subject loan is approved;

12 (E) repayment of the loan is required to be
13 made within a term of the lesser of—

14 (i) 25 years from the date of the exe-
15 cution of the loan; or

16 (ii) the economically useful life, as de-
17 termined by the Board or in consultation
18 with persons or entities deemed appro-
19 priate by the Board, of the primary assets
20 to be used in the delivery of the signals
21 concerned; and

22 (F) the loan meets any additional criteria
23 developed under subsection (g).



1 (3) PROTECTION OF UNITED STATES FINAN-
2 CIAL INTERESTS.—The Board may not approve the
3 guarantee of a loan under this Act unless—

4 (A) the Board has been given documenta-
5 tion, assurances, and access to information,
6 persons, and entities necessary, as determined
7 by the Board, to address issues relevant to the
8 review of the loan by the Board for purposes of
9 this Act; and

10 (B) the Board makes a determination in
11 writing that—

12 (i) to the best of its knowledge upon
13 due inquiry, the assets, facilities, or equip-
14 ment covered by the loan will be utilized
15 economically and efficiently;

16 (ii) the terms, conditions, security,
17 and schedule and amount of repayments of
18 principal and the payment of interest with
19 respect to the loan protect the financial in-
20 terests of the United States and are rea-
21 sonable;

22 (iii) the value of collateral provided by
23 an applicant is at least equal to the unpaid
24 balance of the loan amount covered by the
25 loan guarantee (the “Amount” for pur-



1 poses of this clause); and if the value of
2 collateral provided by an applicant is less
3 than the Amount, the additional required
4 collateral is provided by any affiliate of the
5 applicant;

6 (iv) all necessary and required regu-
7 latory and other approvals, spectrum li-
8 censes, and delivery permissions have been
9 received for the loan and the project under
10 the loan;

11 (v) the loan would not be available on
12 reasonable terms and conditions without a
13 loan guarantee under this Act; and

14 (vi) repayment of the loan can reason-
15 ably be expected.

16 (e) CONSIDERATIONS.—

17 (1) TYPE OF MARKET.—

18 (A) PRIORITY CONSIDERATIONS.—To the
19 maximum extent practicable, the Board shall
20 give priority in the approval of loan guarantees
21 under this Act in the following order:

22 (i) First, to projects that will serve
23 households in nonserved areas. In consid-
24 ering such projects, the Board shall bal-
25 ance projects that will serve the largest



1 number of households with projects that
2 will serve remote, isolated communities (in-
3 cluding noncontiguous States) in areas
4 that are unlikely to be served through mar-
5 ket mechanisms.

6 (ii) Second, to projects that will serve
7 households in underserved areas. In con-
8 sidering such projects, the Board shall bal-
9 ance projects that will serve the largest
10 number of households with projects that
11 will serve remote, isolated communities (in-
12 cluding noncontiguous States) in areas
13 that are unlikely to be served through mar-
14 ket mechanisms.

15 Within each category, the Board shall consider
16 the project's estimated cost per household and
17 shall give priority to those projects that provide
18 the highest quality service at the lowest cost per
19 household.

20 (B) ADDITIONAL CONSIDERATION.—The
21 Board should give additional consideration to
22 projects that also provide high-speed Internet
23 service.



1 (C) PROHIBITIONS.—The Board may not
2 approve a loan guarantee under this Act for a
3 project that—

4 (i) is designed primarily to serve 1 or
5 more of the top 40 designated market
6 areas (as that term is defined in section
7 122(j) of title 17, United States Code); or

8 (ii) would alter or remove National
9 Weather Service warnings from local
10 broadcast signals.

11 (2) OTHER CONSIDERATIONS.—The Board shall
12 consider other factors, which shall include projects
13 that would—

14 (A) offer a separate tier of local broadcast
15 signals, but for applicable Federal, State, or
16 local laws or regulations;

17 (B) provide lower projected costs to con-
18 sumers of such separate tier; and

19 (C) enable the delivery of local broadcast
20 signals consistent with the purpose of this Act
21 by a means reasonably compatible with existing
22 systems or devices predominantly in use.

23 (3) FURTHER CONSIDERATION.—In imple-
24 menting this Act, the Board shall support the use of
25 loan guarantees for projects that would serve house-



1 holds not likely to be served in the absence of loan
2 guarantees under this Act.

3 (f) GUARANTEE LIMITS.—

4 (1) LIMITATION ON AGGREGATE VALUE OF
5 LOANS.—The aggregate value of all loans for which
6 loan guarantees are issued under this Act (including
7 the unguaranteed portion of such loans) may not ex-
8 ceed \$1,250,000,000.

9 (2) GUARANTEE LEVEL.—A loan guarantee
10 issued under this Act may not exceed an amount
11 equal to 80 percent of a loan meeting in its entirety
12 the requirements of subsection (d)(2)(A). If only a
13 portion of a loan meets the requirements of that
14 subsection, the Board shall determine that percent-
15 age of the loan meeting such requirements (the “ap-
16 plicable portion”) and may issue a loan guarantee in
17 an amount not exceeding 80 percent of the applica-
18 ble portion.

19 (g) UNDERWRITING CRITERIA.—Within the period
20 provided for under subsection (b)(1), the Board shall, in
21 consultation with the Director of the Office of Manage-
22 ment and Budget and an independent public accounting
23 firm, develop underwriting criteria relating to the guar-
24 antee of loans that are consistent with the purpose of this
25 Act, including appropriate collateral and cash flow levels



1 for loans guaranteed under this Act, and such other mat-
2 ters as the Board considers appropriate.

3 (h) CREDIT RISK PREMIUMS.—

4 (1) ESTABLISHMENT AND ACCEPTANCE.—

5 (A) IN GENERAL.—The Board may estab-
6 lish and approve the acceptance of credit risk
7 premiums with respect to a loan guarantee
8 under this Act in order to cover the cost, as de-
9 fined in section 502(5) of the Federal Credit
10 Reform Act of 1990, of the loan guarantee.

11 (B) AUTHORITY LIMITED BY APPROPRIA-
12 TIONS ACTS.—Credit risk premiums under this
13 subsection shall be imposed only to the extent
14 provided for in advance in appropriations Acts.
15 To the extent that appropriations of budget au-
16 thority are insufficient to cover the cost, as so
17 defined, of a loan guarantee under this Act,
18 credit risk premiums shall be accepted from a
19 non-Federal source under this subsection on be-
20 half of the applicant for the loan guarantee.

21 (2) CREDIT RISK PREMIUM AMOUNT.—

22 (A) IN GENERAL.—The Board shall deter-
23 mine the amount of any credit risk premium to
24 be accepted with respect to a loan guarantee
25 under this Act on the basis of—



1 (i) the financial and economic cir-
2 cumstances of the applicant for the loan
3 guarantee, including the amount of collat-
4 eral offered;

5 (ii) the proposed schedule of loan dis-
6 bursements;

7 (iii) the business plans of the appli-
8 cant for providing service;

9 (iv) any financial commitment from a
10 broadcast signal provider; and

11 (v) the concurrence of the Director of
12 the Office of Management and Budget as
13 to the amount of the credit risk premium.

14 (B) PROPORTIONALITY.—To the extent
15 that appropriations of budget authority are suf-
16 ficient to cover the cost, as determined under
17 section 502(5) of the Federal Credit Reform
18 Act of 1990, of loan guarantees under this Act,
19 the credit risk premium with respect to each
20 loan guarantee shall be reduced proportionately.

21 (C) PAYMENT OF PREMIUMS.—Credit risk
22 premiums under this subsection shall be paid to
23 an account (the “Escrow Account”) established
24 in the Treasury which shall accrue interest and



1 such interest shall be retained by the account,
2 subject to subparagraph (D).

3 (D) DEDUCTIONS FROM ESCROW AC-
4 COUNT.—If a default occurs with respect to any
5 loan guaranteed under this Act and the default
6 is not cured in accordance with the terms of the
7 underlying loan or loan guarantee agreement,
8 the Administrator, in accordance with sub-
9 sections (i) and (j) of section 5, shall liquidate,
10 or shall cause to be liquidated, all assets
11 collateralizing such loan as to which it has a
12 lien or security interest. Any shortfall between
13 the proceeds of the liquidation net of costs and
14 expenses relating to the liquidation, and the
15 guarantee amount paid pursuant to this Act
16 shall be deducted from funds in the Escrow Ac-
17 count and credited to the Administrator for
18 payment of such shortfall. At such time as de-
19 termined under subsection (d)(2)(E) of this sec-
20 tion when all loans guaranteed under this Act
21 have been repaid or otherwise satisfied in ac-
22 cordance with this Act and the regulations pro-
23 mulgated hereunder, remaining funds in the
24 Escrow Account, if any, shall be refunded, on
25 a pro rata basis, to applicants whose loans



1 guaranteed under this Act were not in default,
2 or where any default was cured in accordance
3 with the terms of the underlying loan or loan
4 guarantee agreement.

5 (i) LIMITATIONS ON GUARANTEES FOR CERTAIN
6 CABLE OPERATORS.—Notwithstanding any other provi-
7 sion of this Act, no loan guarantee under this Act may
8 be granted or used to provide funds for a project that ex-
9 tends, upgrades, or enhances the services provided over
10 any cable system to an area that, as of the date of the
11 enactment of this Act, is covered by a cable franchise
12 agreement that expressly obligates a cable system operator
13 to serve such area.

14 (j) JUDICIAL REVIEW.—The decision of the Board to
15 approve or disapprove the making of a loan guarantee
16 under this Act shall not be subject to judicial review.

17 (k) APPLICABILITY OF APA.—Except as otherwise
18 provided in subsection (j), the provisions of subchapter II
19 of chapter 5 and chapter 7 of title 5, United States Code
20 (commonly referred to as the Administrative Procedure
21 Act), shall apply to actions taken under this Act.

22 **SEC. 5. ADMINISTRATION OF LOAN GUARANTEES.**

23 (a) IN GENERAL.—The Administrator of the Rural
24 Utilities Service (in this Act referred to as the “Adminis-
25 trator”) shall issue and otherwise administer loan guaran-



1 tees that have been approved by the Board in accordance
2 with sections 3 and 4.

3 (b) SECURITY FOR PROTECTION OF UNITED STATES
4 FINANCIAL INTERESTS.—

5 (1) TERMS AND CONDITIONS.—An applicant
6 shall agree to such terms and conditions as are sat-
7 isfactory, in the judgment of the Board, to ensure
8 that, as long as any principal or interest is due and
9 payable on a loan guaranteed under this Act, the
10 applicant—

11 (A) shall maintain assets, equipment, fa-
12 cilities, and operations on a continuing basis;

13 (B) shall not make any discretionary divi-
14 dend payments that impair its ability to repay
15 obligations guaranteed under this Act;

16 (C) shall remain sufficiently capitalized;
17 and

18 (D) shall submit to, and cooperate fully
19 with, any audit of the applicant under section
20 6(a)(2).

21 (2) COLLATERAL.—

22 (A) EXISTENCE OF ADEQUATE COLLAT-
23 ERAL.—An applicant shall provide the Board
24 such documentation as is necessary, in the
25 judgment of the Board, to provide satisfactory



1 evidence that appropriate and adequate collat-
2 eral secures a loan guaranteed under this Act.

3 (B) FORM OF COLLATERAL.—Collateral re-
4 quired by subparagraph (A) shall consist solely
5 of assets of the applicant, any affiliate of the
6 applicant, or both (whichever the Board con-
7 siders appropriate), including primary assets to
8 be used in the delivery of signals for which the
9 loan is guaranteed.

10 (C) REVIEW OF VALUATION.—The value of
11 collateral securing a loan guaranteed under this
12 Act may be reviewed by the Board, and may be
13 adjusted downward by the Board if the Board
14 reasonably believes such adjustment is appro-
15 priate.

16 (3) LIEN ON INTERESTS IN ASSETS.—Upon the
17 Board's approval of a loan guarantee under this Act,
18 the Administrator shall have liens on assets securing
19 the loan, which shall be superior to all other liens on
20 such assets, and the value of the assets (based on
21 a determination satisfactory to the Board) subject to
22 the liens shall be at least equal to the unpaid bal-
23 ance of the loan amount covered by the loan guar-
24 antee, or that value approved by the Board under
25 section 4(d)(3)(B)(iii).



1 (4) PERFECTED SECURITY INTEREST.—With
2 respect to a loan guaranteed under this Act, the Ad-
3 ministrators and the lender shall have a perfected se-
4 curity interest in assets securing the loan that are
5 fully sufficient to protect the financial interests of
6 the United States and the lender.

7 (5) INSURANCE.—In accordance with practices
8 in the private capital market, as determined by the
9 Board, the applicant for a loan guarantee under this
10 Act shall obtain, at its expense, insurance sufficient
11 to protect the financial interests of the United
12 States, as determined by the Board.

13 (c) ASSIGNMENT OF LOAN GUARANTEES.—The hold-
14 er of a loan guarantee under this Act may assign the loan
15 guaranteed under this Act in whole or in part, subject to
16 such requirements as the Board may prescribe.

17 (d) EXPIRATION OF LOAN GUARANTEE UPON STRIP-
18 PING.—Notwithstanding subsections (c), (e), and (h), a
19 loan guarantee under this Act shall have no force or effect
20 if any part of the guaranteed portion of the loan is trans-
21 ferred separate and apart from the unguaranteed portion
22 of the loan.

23 (e) ADJUSTMENT.—The Board may approve the ad-
24 justment of any term or condition of a loan guarantee or
25 a loan guaranteed under this Act, including the rate of



1 interest, time of payment of principal or interest, or secu-
2 rity requirements only if—

3 (1) the adjustment is consistent with the finan-
4 cial interests of the United States;

5 (2) consent has been obtained from the parties
6 to the loan agreement;

7 (3) the adjustment is consistent with the under-
8 writing criteria developed under section 4(g);

9 (4) the adjustment does not adversely affect the
10 interest of the Federal Government in the assets or
11 collateral of the applicant;

12 (5) the adjustment does not adversely affect the
13 ability of the applicant to repay the loan; and

14 (6) the National Telecommunications and Infor-
15 mation Administration has been consulted by the
16 Board regarding the adjustment.

17 (f) PERFORMANCE SCHEDULES.—

18 (1) PERFORMANCE SCHEDULES.—An applicant
19 for a loan guarantee under this Act for a project
20 covered by section 4(e)(1) shall enter into stipulated
21 performance schedules with the Administrator with
22 respect to the signals to be provided through the
23 project.

24 (2) PENALTY.—The Administrator may assess
25 against and collect from an applicant described in



1 paragraph (1) a penalty not to exceed 3 times the
2 interest due on the guaranteed loan of the applicant
3 under this Act if the applicant fails to meet its stip-
4 ulated performance schedule under that paragraph.

5 (g) COMPLIANCE.—The Administrator, in coopera-
6 tion with the Board and as the regulations of the Board
7 may provide, shall enforce compliance by an applicant, and
8 any other party to a loan guarantee for whose benefit as-
9 sistance under this Act is intended, with the provisions
10 of this Act, any regulations under this Act, and the terms
11 and conditions of the loan guarantee, including through
12 the submittal of such reports and documents as the Board
13 may require in regulations prescribed by the Board and
14 through regular periodic inspections and audits.

15 (h) COMMERCIAL VALIDITY.—A loan guarantee
16 under this Act shall be incontestable—

17 (1) in the hands of an applicant on whose be-
18 half the loan guarantee is made, unless the applicant
19 engaged in fraud or misrepresentation in securing
20 the loan guarantee; and

21 (2) as to any person or entity (or their respec-
22 tive successor in interest) who makes or contracts to
23 make a loan to the applicant for the loan guarantee
24 in reliance thereon, unless such person or entity (or
25 respective successor in interest) engaged in fraud or



1 misrepresentation in making or contracting to make
2 such loan.

3 (i) DEFAULTS.—The Board shall prescribe regula-
4 tions governing defaults on loans guaranteed under this
5 Act, including the administration of the payment of guar-
6 anteed amounts upon default.

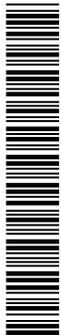
7 (j) RECOVERY OF PAYMENTS.—

8 (1) IN GENERAL.—The Administrator shall be
9 entitled to recover from an applicant for a loan
10 guarantee under this Act the amount of any pay-
11 ment made to the holder of the guarantee with re-
12 spect to the loan.

13 (2) SUBROGATION.—Upon making a payment
14 described in paragraph (1), the Administrator shall
15 be subrogated to all rights of the party to whom the
16 payment is made with respect to the guarantee
17 which was the basis for the payment.

18 (3) DISPOSITION OF PROPERTY.—

19 (A) SALE OR DISPOSAL.—The Adminis-
20 trator shall, in an orderly and efficient manner,
21 sell or otherwise dispose of any property or
22 other interests obtained under this Act in a
23 manner that maximizes taxpayer return and is
24 consistent with the financial interests of the
25 United States.



1 (B) MAINTENANCE.—The Administrator
2 shall maintain in a cost-effective and reasonable
3 manner any property or other interests pending
4 sale or disposal of such property or other inter-
5 ests under subparagraph (A).

6 (k) ACTION AGAINST OBLIGOR.—

7 (1) AUTHORITY TO BRING CIVIL ACTION.—The
8 Administrator may bring a civil action in an appro-
9 priate district court of the United States in the
10 name of the United States or of the holder of the
11 obligation in the event of a default on a loan guar-
12 anteed under this Act. The holder of a loan guar-
13 antee shall make available to the Administrator all
14 records and evidence necessary to prosecute the civil
15 action.

16 (2) FULLY SATISFYING OBLIGATIONS OWED
17 THE UNITED STATES.—The Administrator may ac-
18 cept property in satisfaction of any sums owed the
19 United States as a result of a default on a loan
20 guaranteed under this Act, but only to the extent
21 that any cash accepted by the Administrator is not
22 sufficient to satisfy fully the sums owed as a result
23 of the default.

24 (l) BREACH OF CONDITIONS.—The Administrator
25 shall commence a civil action in a court of appropriate



1 jurisdiction to enjoin any activity which the Board finds
2 is in violation of this Act, the regulations under this Act,
3 or any conditions which were duly agreed to, and to secure
4 any other appropriate relief, including relief against any
5 affiliate of the applicant.

6 (m) ATTACHMENT.—No attachment or execution
7 may be issued against the Administrator or any property
8 in the control of the Administrator pursuant to this Act
9 before the entry of a final judgment (as to which all rights
10 of appeal have expired) by a Federal, State, or other court
11 of competent jurisdiction against the Administrator in a
12 proceeding for such action.

13 (n) FEES.—

14 (1) APPLICATION FEE.—The Board shall
15 charge and collect from an applicant for a loan guar-
16 antee under this Act a fee to cover the cost of the
17 Board in making necessary determinations and find-
18 ings with respect to the loan guarantee application
19 under this Act. The amount of the fee shall be rea-
20 sonable.

21 (2) LOAN GUARANTEE ORIGINATION FEE.—The
22 Board shall charge, and the Administrator may col-
23 lect, a loan guarantee origination fee with respect to
24 the issuance of a loan guarantee under this Act.

25 (3) USE OF FEES COLLECTED.—



1 (A) IN GENERAL.—Any fee collected under
2 this subsection shall be used, subject to sub-
3 paragraph (B), to offset administrative costs
4 under this Act, including costs of the Board
5 and of the Administrator.

6 (B) SUBJECT TO APPROPRIATIONS.—The
7 authority provided by this subsection shall be
8 effective only to such extent or in such amounts
9 as are provided in advance in appropriations
10 Acts.

11 (C) LIMITATION ON FEES.—The aggregate
12 amount of fees imposed by this subsection shall
13 not exceed the actual amount of administrative
14 costs under this Act.

15 (o) REQUIREMENTS RELATING TO AFFILIATES.—

16 (1) INDEMNIFICATION.—The United States
17 shall be indemnified by any affiliate (acceptable to
18 the Board) of an applicant for a loan guarantee
19 under this Act for any losses that the United States
20 incurs as a result of—

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

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



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

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

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

10 (2) LIMITATION ON TRANSFER OF LOAN PRO-
11 CEEDS.—An applicant for a loan guarantee under
12 this Act may not transfer any part of the proceeds
13 of the loan to an affiliate.

14 (p) EFFECT OF BANKRUPTCY.—

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

22 (2) A discharge in bankruptcy under title 11,
23 United States Code, shall not release a person or en-
24 tity from an obligation to the United States in con-
25 nection with a loan guarantee under this Act.



1 **SEC. 6. ANNUAL AUDIT.**

2 (a) REQUIREMENT.—The Comptroller General of the
3 United States shall conduct on an annual basis an audit
4 of—

5 (1) the administration of the provisions of this
6 Act; and

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

11 (b) REPORT.—The Comptroller General shall submit
12 to the Committee on Banking, Housing, and Urban Af-
13 fairs of the Senate and the Committee on Banking and
14 Financial Services of the House of Representatives a re-
15 port on each audit conducted under subsection (a).

16 **SEC. 7. IMPROVED CELLULAR SERVICE IN RURAL AREAS.**

17 (a) REINSTATEMENT OF APPLICANTS AS TENTATIVE
18 SELECTEES.—

19 (1) IN GENERAL.—Notwithstanding the order
20 of the Federal Communications Commission in the
21 proceeding described in paragraph (3), the Commis-
22 sion shall—

23 (A) reinstate each applicant as a tentative
24 selectee under the covered rural service area li-
25 censing proceeding; and



1 (B) permit each applicant to amend its ap-
2 plication, to the extent necessary to update fac-
3 tual information and to comply with the rules
4 of the Commission, at any time before the Com-
5 mission's final licensing action in the covered
6 rural service area licensing proceeding.

7 (2) EXEMPTION FROM PETITIONS TO DENY.—
8 For purposes of the amended applications filed pur-
9 suant to paragraph (1)(B), the provisions of section
10 309(d)(1) of the Communications Act of 1934 (47
11 U.S.C. 309(d)(1)) shall not apply.

12 (3) PROCEEDING.—The proceeding described in
13 this paragraph is the proceeding of the Commission
14 In re Applications of Cellwave Telephone Services
15 L.P., Futurewave General Partners L.P., and Great
16 Western Cellular Partners, 7 FCC Rcd No. 19
17 (1992).

18 (b) CONTINUATION OF LICENSE PROCEEDING; FEE
19 ASSESSMENT.—

20 (1) AWARD OF LICENSES.—The Commission
21 shall award licenses under the covered rural service
22 area licensing proceeding within 90 days after the
23 date of the enactment of this Act.

24 (2) SERVICE REQUIREMENTS.—The Commis-
25 sion shall provide that, as a condition of an appli-



1 cant receiving a license pursuant to the covered
2 rural service area licensing proceeding, the applicant
3 shall provide cellular radiotelephone service to sub-
4 scribers in accordance with sections 22.946 and
5 22.947 of the Commission's rules (47 CFR 22.946,
6 22.947); except that the time period applicable
7 under section 22.947 of the Commission's rules (or
8 any successor rule) to the applicants identified in
9 subparagraphs (A) and (B) of subsection (d)(1)
10 shall be 3 years rather than 5 years and the waiver
11 authority of the Commission shall apply to such 3-
12 year period.

13 (3) CALCULATION OF LICENSE FEE.—

14 (A) FEE REQUIRED.—The Commission
15 shall establish a fee for each of the licenses
16 under the covered rural service area licensing
17 proceeding. In determining the amount of the
18 fee, the Commission shall consider—

19 (i) the average price paid per person
20 served in the Commission's Cellular
21 Unserved Auction (Auction No. 12); and

22 (ii) the settlement payments required
23 to be paid by the permittees pursuant to
24 the consent decree set forth in the Com-
25 mission's order, In re the Tellesis Partners



1 (7 FCC Red 3168 (1992)), multiplying
2 such payments by two.

3 (B) NOTICE OF FEE.—Within 30 days
4 after the date an applicant files the amended
5 application permitted by subsection (a)(1)(B),
6 the Commission shall notify each applicant of
7 the fee established for the license associated
8 with its application.

9 (4) PAYMENT FOR LICENSES.—No later than
10 18 months after the date that an applicant is grant-
11 ed a license, each applicant shall pay to the Commis-
12 sion the fee established pursuant to paragraph (3)
13 for the license granted to the applicant under para-
14 graph (1).

15 (5) AUCTION AUTHORITY.—If, after the amend-
16 ment of an application pursuant to subsection
17 (a)(1)(B), the Commission finds that the applicant
18 is ineligible for grant of a license to provide cellular
19 radiotelephone services for a rural service area or
20 the applicant does not meet the requirements under
21 paragraph (2) of this subsection, the Commission
22 shall grant the license for which the applicant is the
23 tentative selectee (pursuant to subsection (a)(1)(B)
24 by competitive bidding pursuant to section 309(j) of
25 the Communications Act of 1934 (47 U.S.C. 309(j)).



1 (c) PROHIBITION OF TRANSFER.—During the 5-year
2 period that begins on the date that an applicant is granted
3 any license pursuant to subsection (a), the Commission
4 may not authorize the transfer or assignment of that li-
5 cense under section 310 of the Communications Act of
6 1934 (47 U.S.C. 310). Nothing in this Act may be con-
7 strued to prohibit any applicant granted a license pursu-
8 ant to subsection (a) from contracting with other licensees
9 to improve cellular telephone service.

10 (d) DEFINITIONS.—For the purposes of this section,
11 the following definitions shall apply:

12 (1) APPLICANT.—The term “applicant”
13 means—

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

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

23 (C) FutureWave General Partners L.P., a
24 Delaware limited partnership chosen by the



1 Commission as tentative selectee for RSA #615
2 on May 25, 1990.

3 (2) COMMISSION.—The term “Commission”
4 means the Federal Communications Commission.

5 (3) COVERED RURAL SERVICE AREA LICENSING
6 PROCEEDING.—The term “covered rural service area
7 licensing proceeding” means the proceeding of the
8 Commission for the grant of cellular radiotelephone
9 licenses for rural service areas #492 (Minnesota
10 11), #370 (Florida 11), and #615 (Pennsylvania
11 4).

12 (4) TENTATIVE SELECTEE.—The term “ten-
13 tative selectee” means a party that has been selected
14 by the Commission under a licensing proceeding for
15 grant of a license, but has not yet been granted the
16 license because the Commission has not yet deter-
17 mined whether the party is qualified under the Com-
18 mission’s rules for grant of the license.

19 **SEC. 8. TECHNICAL AMENDMENT.**

20 Section 339(c) of the Communications Act of 1934
21 (47 U.S.C. 339(c)) is amended by adding at the end the
22 following new paragraph:

23 “(5) DEFINITION.—Notwithstanding subsection
24 (d)(4), for purposes of paragraphs (2) and (4) of
25 this subsection, the term ‘satellite carrier’ includes a



1 distributor (as defined in section 119(d)(1) of title
2 17, United States Code), but only if the satellite dis-
3 tributor's relationship with the subscriber includes
4 billing, collection, service activation, and service de-
5 activation.”.

6 **SEC. 9. SUNSET.**

7 No loan guarantee may be approved under this Act
8 after December 31, 2006.

9 **SEC. 10. DEFINITIONS.**

10 In this Act:

11 (1) AFFILIATE.—The term “affiliate”—

12 (A) means any person or entity that con-
13 trols, or is controlled by, or is under common
14 control with, another person or entity; and

15 (B) may include any individual who is a di-
16 rector or senior management officer of an affil-
17 iate, a shareholder controlling more than 25
18 percent of the voting securities of an affiliate,
19 or more than 25 percent of the ownership inter-
20 est in an affiliate not organized in stock form.

21 (2) NONSERVED AREA.—The term “nonserved
22 area” means any area that—

23 (A) is outside the grade B contour (as de-
24 termined using standards employed by the Fed-
25 eral Communications Commission) of the local



1 television broadcast signals serving a particular
2 designated market area; and

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

6 (3) UNDERSERVED AREA.—The term “under-
7 served area” means any area that—

8 (A) is outside the grade A contour (as de-
9 termined using standards employed by the Fed-
10 eral Communications Commission) of the local
11 television broadcast signals serving a particular
12 designated market area; and

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

16 (4) COMMON TERMS.—Except as provided in
17 paragraphs (1) through (3), any term used in this
18 Act that is defined in the Communications Act of
19 1934 (47 U.S.C. 151 et seq.) has the meaning given
20 that term in the Communications Act of 1934.

21 **SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS.**

22 (a) COST OF LOAN GUARANTEES.—For the cost of
23 the loans guaranteed under this Act, including the cost
24 of modifying the loans, as defined in section 502 of the
25 Congressional Budget Act of 1974 (2 U.S.C. 661(a)),



1 there are authorized to be appropriated for fiscal years
2 2001 through 2006, such amounts as may be necessary.

3 (b) COST OF ADMINISTRATION.—There is hereby au-
4 thorized to be appropriated such sums as may be nec-
5 essary to carry out the provisions of this Act, other than
6 to cover costs under subsection (a).

7 (c) AVAILABILITY.—Any amounts appropriated pur-
8 suant to the authorizations of appropriations in sub-
9 sections (a) and (b) shall remain available until expended.

10 **SEC. 12. PREVENTION OF INTERFERENCE TO DIRECT**
11 **BROADCAST SATELLITE SERVICES.**

12 (a) TESTING FOR HARMFUL INTERFERENCE.—The
13 Federal Communications Commission shall provide for an
14 independent technical demonstration of any terrestrial
15 service technology proposed by any entity that has filed
16 an application to provide terrestrial service in the direct
17 broadcast satellite frequency band to determine whether
18 the terrestrial service technology proposed to be provided
19 by that entity will cause harmful interference to any direct
20 broadcast satellite service.

21 (b) TECHNICAL DEMONSTRATION.—In order to sat-
22 isfy the requirement of subsection (a) for any pending ap-
23 plication, the Commission shall select an engineering firm
24 or other qualified entity independent of any interested
25 party based on a recommendation made by the Institute



1 of Electrical and Electronics Engineers (IEEE), or a simi-
2 lar independent professional organization, to perform the
3 technical demonstration or analysis. The demonstration
4 shall be concluded within 60 days after the date of enact-
5 ment of this Act and shall be subject to public notice and
6 comment for not more than 30 days thereafter.

7 (c) DEFINITIONS.—As used in this section:

8 (1) DIRECT BROADCAST SATELLITE FRE-
9 QUENCY BAND.—The term “direct broadcast sat-
10 ellite frequency band” means the band of frequencies
11 at 12.2 to 12.7 gigahertz.

12 (2) DIRECT BROADCAST SATELLITE SERVICE.—
13 The term “direct broadcast satellite service” means
14 any direct broadcast satellite system operating in the
15 direct broadcast satellite frequency band.

