

the control of the Administrator pursuant to this chapter before the entry of a final judgment (as to which all rights of appeal have expired) by a Federal, State, or other court of competent jurisdiction against the Administrator in a proceeding for such action.

**(n) Fees**

**(1) Application fee**

The Board shall charge and collect from an applicant for a loan guarantee under this chapter a fee to cover the cost of the Board in making necessary determinations and findings with respect to the loan guarantee application under this chapter. The amount of the fee shall be reasonable.

**(2) Loan guarantee origination fee**

The Board shall charge, and the Administrator may collect, a loan guarantee origination fee with respect to the issuance of a loan guarantee under this chapter.

**(3) Use of fees collected**

**(A) In general**

Any fee collected under this subsection shall be used, subject to subparagraph (B), to offset administrative costs under this chapter, including costs of the Board and of the Administrator.

**(B) Subject to appropriations**

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

**(C) Limitation on fees**

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

**(o) Requirements relating to affiliates**

**(1) Indemnification**

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

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

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

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

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

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

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

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

**(p) Effect of bankruptcy**

(1) Notwithstanding any other provision of law, whenever any person or entity is indebted

to the United States as a result of any loan guarantee issued under this chapter and such person or entity is insolvent or is a debtor in a case under title 11, the debts due to the United States shall be satisfied first.

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

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

REFERENCES IN TEXT

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

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

AMENDMENTS

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

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

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

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

**§ 1105. Annual audit**

**(a) Requirement**

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

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

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

**(b) Report**

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

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

REFERENCES IN TEXT

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

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by

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

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

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

##### (1) In general

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

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

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

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

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

##### (3) Proceeding

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

#### (b) Continuation of license proceeding; fee assessment

##### (1) Award of licenses

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

##### (2) Service requirements

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

##### (3) Calculation of license fee

###### (A) Fee required

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

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

(ii) the settlement payments required to be paid by the permittees pursuant to the consent decree set forth in the Commission's order, In re the Tellesis Partners (7 FCC Rcd 3168 (1992)), multiplying such payments by two.

##### (B) Notice of fee

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

##### (4) Payment for licenses

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

##### (5) Auction authority

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

##### (c) Prohibition of transfer

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

##### (d) Definitions

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

###### (1) Applicant

The term "applicant" means—

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

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

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

###### (2) Commission

The term "Commission" means the Federal Communications Commission.

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