



B-285874

August 1, 2000

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Assessment and Collection of
Regulatory Fees for Fiscal Year 2000

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Assessment and Collection of Regulatory Fees for Fiscal Year 2000" (MM Docket No. 00-58; FCC 00-240). We received the rule on July 14, 2000. It was published in the Federal Register as a final rule on July 18, 2000. 65 Fed. Reg. 44576.

The rule revises the regulatory fee schedule to bring it into compliance with the amount of such fees Congress has required the FCC to collect for fiscal year 2000. For FY 2000, the amount to be recovered is \$185,754,000, or almost 7.67 percent more than was required for FY 1999. The purpose of the fees is to recover the costs of regulation in the areas of enforcement, policy and rulemaking, international and user information activities.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that except for the 60-day effective date delay discussed below, the FCC complied with the applicable requirements.

The final rule has an announced effective date of September 10, 2000. The Congressional Review Act requires major rules to have a 60-day delay in their

effective date following publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A).

The rule was received by Congress on July 14, 2000, and was published in the Federal Register on July 18, 2000. The FCC published a brief notice in the July 11, 2000, Federal Register (65 Fed. Reg. 42697) summarizing the final rule in an attempt to satisfy the 60-day delay requirement.

We find it unnecessary to resolve the effect of the July 11 rule summary because the filing date with Congress, the later of the two events, commences the calculation of the 60-day delay period. Therefore, the final rule will not have the required 60-day delay in its effective date.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Stanley Czerwinski, Associate Director, Housing and Community Development Issues. Mr. Czerwinski can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Kathleen Fagan
Associate Managing Director - Performance
Evaluation and Records Management
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"ASSESSMENT AND COLLECTION OF REGULATORY FEES
FOR FISCAL YEAR 2000"
(MM DOCKET NO. 00-58; FCC 00-240)

(i) Cost-benefit analysis

The FCC's submission to us stated that it was not required to prepare and did not prepare a cost-benefit analysis of the rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

Section 603:

The initial regulatory flexibility analysis (IRFA) was incorporated in the notice of proposed rulemaking, 65 Fed. Reg. 19580, April 11, 2000. The FCC sought comments on the proposed rulemaking, including comments on the initial regulatory flexibility analysis.

The IRFA provides the information required by paragraphs 603(b)(1), (b)(2), (b)(3), and (b)(4). It describes the reasons for the proposed agency action; its objectives; the legal basis; an estimate of the classes of small entities subject to the rule; and the reporting, recordkeeping, and other compliance requirements of the proposed rule. In accordance with 603(b)(5), the FCC notes that there are no federal rules that may duplicate, overlap, or conflict with the proposed rules.

Section 604:

Attachment A to the final rule is the full text of the FCC's final regulatory flexibility analysis. 65 Fed. Reg. 44583. The FCC satisfies the requirements of § 604(a). It describes the need for and objective of the final rule. It notes that no significant issues were raised by public comments in response to the IRFA.

Finally, the FCC describes the steps taken to minimize the economic impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The FCC promulgated this rule under the notice and comment procedures of 5 U.S.C. § 553. A notice of proposed rulemaking was published on April 11, 2000, 65 Fed. Reg. 19580. The FCC received comments in response to the notice and indicates that it gave full consideration to the comments filed by the interested parties.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The FCC requires the submission of FCC Form 159 with the payment of the annual fee. The FCC had previously received OMB clearance for the form (OMB #3060-0589).

Statutory authorization for the rule

The authority for this final rule is contained in sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), 9, and 303(r).

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of E.O. 12866.