

107TH CONGRESS
2D SESSION

H. R. 4012

To amend the Communications Act of 1934 to foster the deployment of wireless telecommunications services to consumers in rural areas.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2002

Mrs. CUBIN introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to foster the deployment of wireless telecommunications services to consumers in rural areas.

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 “Rural Wireless Tele-
5 communications Consumer Enhancement Act of 2002”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The Telecommunications Act of 1996 was
9 enacted to foster the deployment of telecommuni-
10 cations and information technologies to all Ameri-

1 cans by promoting competition and reducing regula-
2 tion.

3 (2) The Telecommunications Act of 1996 spe-
4 cifically recognized the unique challenges in deliv-
5 ering services in rural and underserved areas.

6 (3) Small wireless carriers in rural areas are
7 uniquely positioned to offer quality services and
8 competitive initiatives to benefit consumers in such
9 less densely populated regions.

10 (4) Existing regulations are typically tailored to
11 the circumstances of larger carriers and therefore
12 often impose disproportionate burdens on small rural
13 wireless carriers inhibiting the ability of these car-
14 riers to expand telecommunications services and
15 offer new competitive initiatives to consumers living
16 in rural areas.

17 (5) Reducing regulatory burdens on small rural
18 wireless carriers located in and serving rural areas
19 will enable these carriers to commit resources to the
20 deployment of expanded telecommunications services
21 and competitive initiatives to benefit consumers liv-
22 ing in such areas.

23 (6) Reducing regulatory burdens on small rural
24 wireless carriers located in and serving rural areas
25 will increase carriers' abilities to respond to market-

1 place conditions allowing them to accelerate deploy-
2 ment of wireless services and competitive initiatives
3 to benefit businesses and residents in rural areas.

4 (b) PURPOSES.—The purposes of this Act are—

5 (1) to accelerate deployment of wireless tele-
6 communications and the development of competition
7 in the telecommunications industry in all regions of
8 the Nation, consistent with the Telecommunications
9 Act of 1996, by reducing regulatory burdens on
10 small rural wireless carriers located in and serving
11 rural communities;

12 (2) to improve such carriers' abilities to offer
13 new competitive initiatives; and

14 (3) to allow such carriers to redirect resources
15 from paying the costs of such regulatory burdens to
16 increasing investment in such initiatives.

17 **SEC. 3. DEFINITIONS.**

18 Section 3 of the Communications Act of 1934 (47
19 U.S.C. 153) is amended—

20 (1) by redesignating paragraphs (40) through
21 (52) as paragraphs (41) through (53), respectively;
22 and

23 (2) by inserting after paragraph (39) the fol-
24 lowing new paragraph:

1 “(40) SMALL RURAL WIRELESS CARRIERS.—

2 The term ‘small rural wireless carriers’ means any
3 wireless company (together with all affiliates) whose
4 wireless subscribers are fewer than 1 percent of the
5 Nation’s wireless subscribers in the aggregate na-
6 tionwide.”.

7 **SEC. 4. REDUCED REGULATORY BURDENS ON SMALL**
8 **RURAL WIRELESS CARRIERS.**

9 Section 332(c) of the Communications Act of 1934
10 (47 U.S.C. 332(c)) is amended by adding at the end the
11 following new paragraph:

12 “(9) SMALL RURAL WIRELESS CARRIERS.—

13 “(A) COMMISSION TO TAKE INTO ACCOUNT
14 DIFFERENCES.—In adopting rules that apply to
15 small rural wireless carriers (as defined in this
16 Act) the Commission shall separately evaluate
17 the burden that any proposed regulatory, com-
18 pliance, or reporting requirements would have
19 on small rural wireless carriers.

20 “(B) EFFECT OF COMMISSION’S FAILURE
21 TO TAKE INTO ACCOUNT DIFFERENCES.—If the
22 Commission adopts a rule that applies to small
23 rural wireless carriers and fails to separately
24 evaluate the burden that any proposed regu-
25 latory, compliance, or reporting requirement

1 would have on small rural wireless carriers, the
2 Commission shall not enforce the rule against
3 small rural wireless carriers until the Commis-
4 sion performs such separate evaluation.

5 “(C) IF COMMISSION DETERMINES THE
6 RULES ARE BURDENSOME.—If its evaluation
7 determines that any proposed regulatory, com-
8 pliance, or reporting requirement would create
9 a financial burden on small rural wireless car-
10 riers by imposing additional costs that require
11 small rural wireless carriers to divert resources
12 from improving existing and advanced services,
13 making infrastructure investments, and other
14 competitive initiatives for the benefit of busi-
15 nesses and residents in rural areas, the Com-
16 mission shall forbear from imposing such re-
17 quirement on small rural wireless carriers un-
18 less it determines such forbearance is not in the
19 public interest.

20 “(D) IF FORBEARANCE IS NOT IN THE
21 PUBLIC INTEREST.—If the Commission deter-
22 mines that such forbearance is not in the public
23 interest, the Commission shall state its reasons
24 for such determination, develop an alternative
25 schedule that provides additional time for small

1 rural wireless carriers to comply with such re-
 2 quirements, and report such actions to the Con-
 3 gress 30 days prior to finalizing the regulatory,
 4 compliance, or reporting requirements.

5 “(E) ADDITIONAL REVIEW NOT RE-
 6 QUIRED.—The Commission is not required to
 7 conduct a separate evaluation under subpara-
 8 graph (A) if the rules adopted do not apply to
 9 small rural wireless carriers.”.

10 **SEC. 5. TIME LIMITS FOR ACTION ON PETITIONS FOR RE-**
 11 **CONSIDERATION OR WAIVER.**

12 Section 405 of the Communications Act of 1934 (47
 13 U.S.C. 405) is amended by adding at the end the following
 14 new subsection:

15 “(c) EXPEDITED ACTION REQUIRED.—Not later
 16 than 90 days after receiving from a small rural wireless
 17 carrier a petition for reconsideration or other review filed
 18 under this section or a petition for waiver of a rule, policy,
 19 or other Commission requirement, the Commission shall
 20 issue an order granting or denying such petition. If the
 21 Commission fails to act on a petition for waiver subject
 22 to the requirements of this section within this 90-day pe-
 23 riod, the relief sought in such petition shall be deemed
 24 granted. If the Commission fails to act on a petition for
 25 reconsideration or other review subject to the require-

1 ments of this section within such 90-day period, the Com-
 2 mission's enforcement of any rule the reconsideration or
 3 other review of which was specifically sought by the peti-
 4 tioning party shall be stayed with respect to that party.”.

5 **SEC. 6. ESTABLISHING OFFICE OF RURAL ADVOCACY IN**
 6 **THE FEDERAL COMMUNICATIONS COMMIS-**
 7 **SION.**

8 Title I of the Communications Act of 1934 (47
 9 U.S.C. 151 et seq.) is amended by adding at the end the
 10 following new section:

11 **“SEC. 12. OFFICE OF RURAL ADVOCACY.**

12 “(a) ESTABLISHMENT.—There shall be in the Com-
 13 mission an office to be known as the ‘Office of Rural Advo-
 14 cacy’ (hereafter in this section referred to as the ‘Office’).
 15 The Office shall not be a bureau of the Commission.

16 “(b) HEAD OF OFFICE.—The Office shall be headed
 17 by the Rural Advocate of the Federal Communications
 18 Commission. The Rural Advocate shall be appointed by
 19 the President, by and with the advice and consent of the
 20 Senate, from among citizens of the United States. The
 21 Rural Advocate shall have a status and rank in the Com-
 22 mission commensurate with the status and rank in the
 23 Commission of the heads of the bureaus of the Commis-
 24 sion.

1 “(c) RESPONSIBILITIES OF OFFICE.—The respon-
2 sibilities of the Office are as follows:

3 “(1) To promote access to wireless tele-
4 communications services for populations in the rural
5 United States.

6 “(2) To assess the effectiveness of existing Fed-
7 eral programs for providers of wireless telecommuni-
8 cations services in rural areas and make rec-
9 ommendations to Congress for legislative actions to
10 improve such programs.

11 “(3) To measure the costs and other effects of
12 Federal regulations on the capability of wireless tele-
13 communications carriers in rural areas to provide
14 telecommunications services in such areas and make
15 recommendations for legislative and non-legislative
16 actions to modify such regulations so as to minimize
17 the interference of such regulations with that capa-
18 bility.

19 “(4) To represent the views and interests of
20 rural populations and providers of telecommuni-
21 cations services in rural areas before any department
22 or agency of the Federal Government whose policies
23 and activities affect the receipt or delivery of tele-
24 communications services in rural areas.

1 “(5) To serve as a focal point for the receipt of
2 complaints, criticisms, and suggestions concerning
3 policies and activities of any department or agency
4 of the Federal Government which affect the delivery
5 of telecommunications services in rural areas.

6 “(d) STAFF.—For purposes of carrying out the re-
7 sponsibilities of the Office, the Rural Advocate may em-
8 ploy personnel not to exceed 10 individuals with a rate
9 of pay not to exceed GS–15 of the General Schedule.

10 “(e) ANNUAL REPORT.—The Rural Advocate shall
11 submit to the Congress, the President, and the Commis-
12 sion on an annual basis a report on the activities of the
13 Office under this section during the preceding year. The
14 report may include any recommendations for legislative or
15 other action that the Rural Advocate considers appro-
16 priate. Nothing in this section shall be construed to limit
17 the Rural Advocate from making other reports as deemed
18 appropriate by the Rural Advocate.

19 “(f) LIMITED AUTHORITY.—Nothing in this section
20 should be interpreted to give the Rural Advocate any au-
21 thority to impose or to seek imposition from the Commis-
22 sion on small rural wireless carriers of any additional reg-
23 ulatory, compliance, or reporting requirements.”.

1 **SEC. 7. EFFECTIVE DATE.**

2 This Act shall apply to all rulemaking that is pending
3 on or commenced after the date of enactment of this Act.

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