

Federal Communications Commission

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geographic areas specified in § 27.6(h)(2).

[62 FR 9658, Mar. 3, 1997, as amended at 63 FR 68954, Dec. 14, 1998; 65 FR 3146, Jan. 20, 2000; 67 FR 5511, Feb. 6, 2002; 67 FR 41854, June 20, 2002; 69 FR 5715, Feb. 6, 2004; 69 FR 39867, July 1, 2004]

§ 27.12 Eligibility.

Except as provided in § 27.604, any entity other than those precluded by section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, is eligible to hold a license under this part.

[68 FR 66286, Nov. 25, 2003]

§ 27.13 License period.

(a) *2305–2320 MHz and 2345–2360 MHz bands.* Initial WCS authorizations for the 2305–2320 MHz and 2345–2360 MHz bands will have a term not to exceed ten years from the date of original issuance or renewal.

(b) *698–764 MHz and 776–794 MHz bands.* Initial authorizations for the 698–764 MHz and 776–794 MHz bands will extend until January 1, 2015, except that a part 27 licensee commencing broadcast services will be required to seek renewal of its license for such services at the termination of the eight-year term following commencement of such operations.

(c) *1390–1392 MHz band.* Initial authorizations for the 1390–1392 MHz band will have a term not to exceed ten years from the date of initial issuance or renewal.

(d) *The paired 1392–1395 and 1432–1435 MHz bands.* Initial WCS authorizations for the paired 1392–1395 MHz and 1432–1435 MHz bands will have a term not to exceed ten years from the date of initial issuance or renewal.

(e) *1670–1675 MHz band.* Initial authorizations for the 1670–1675 MHz band will have a term not to exceed ten years from the date of initial issuance or renewal.

(f) *2385–2390 MHz band.* Initial authorizations for the 2385–2390 MHz band will have a term not to exceed ten years from the date of initial issuance or renewal.

(g) *1710–1755 MHz and 2110–2155 MHz bands.* Authorizations for the 1710–1755 MHz and 2110–2155 MHz bands will have a term not to exceed ten years from the date of initial issuance or renewal,

except that authorizations issued on or before December 31, 2009, shall have a term of fifteen years.

[65 FR 3146, Jan. 20, 2000; 65 FR 12483, Mar. 9, 2000, as amended at 65 FR 17602, Apr. 4, 2000; 65 FR 57267, Sept. 21, 2000; 67 FR 5511, Feb. 6, 2002; 67 FR 41855, June 20, 2002; 69 FR 5715, Feb. 6, 2004]

§ 27.14 Construction requirements; Criteria for comparative renewal proceedings.

(a) AWS and WCS licensees must make a showing of “substantial service” in their license area within the prescribed license term set forth in § 27.13. “Substantial” service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal. Failure by any licensee to meet this requirement will result in forfeiture of the license and the licensee will be ineligible to regain it.

(b) A renewal applicant involved in a comparative renewal proceeding shall receive a preference, commonly referred to as a renewal expectancy, which is the most important comparative factor to be considered in the proceeding, if its past record for the relevant license period demonstrates that:

(1) The renewal applicant has provided “substantial” service during its past license term; and

(2) The renewal applicant has substantially complied with applicable FCC rules, policies and the Communications Act of 1934, as amended.

(c) In order to establish its right to a renewal expectancy, a WCS renewal applicant involved in a comparative renewal proceeding must submit a showing explaining why it should receive a renewal expectancy. At a minimum, this showing must include:

(1) A description of its current service in terms of geographic coverage and population served;

(2) An explanation of its record of expansion, including a timetable of new construction to meet changes in demand for service;

(3) A description of its investments in its WCS system; and

(4) Copies of all FCC orders finding the licensee to have violated the Communications Act or any FCC rule or

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policy; and a list of any pending proceedings that relate to any matter described in this paragraph.

(d) In making its showing of entitlement to a renewal expectancy, a renewal applicant may claim credit for any system modification applications that were pending on the date it filed its renewal application. Such credit will not be allowed if the modification application is dismissed or denied.

[62 FR 9658, Mar. 3, 1997, as amended at 65 FR 3146, Jan. 20, 2000; 69 FR 5715, Feb. 6, 2004]

§ 27.15 Geographic partitioning and spectrum disaggregation.

(a) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request from the Commission an authorization for partial assignment of a license pursuant to § 1.948.

(2) AWS and WCS licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum at any time following the grant of their licenses.

(b) *Technical Standards—(1) Partitioning.* In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to section 1.948 and list the partitioned service area on a schedule to the application. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude and must be based upon the 1983 North American Datum (NAD83).

(2) *Disaggregation.* Spectrum may be disaggregated in any amount.

(3) *Combined partitioning and disaggregation.* The Commission will consider requests for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(4) *Signal levels.* For purposes of partitioning and disaggregation, part 27 systems must be designed so as not to exceed the signal level specified for the particular spectrum block in § 27.55 at the licensee's service area boundary, unless the affected adjacent service area licensees have agreed to a different signal level.

(c) *License term.* The license term for a partitioned license area and for disaggregated spectrum shall be the re-

mainder of the original licensee's license term as provided for in § 27.13.

(d) *Compliance with construction requirements.* The following rules apply for purposes of implementing the construction requirements set forth in § 27.14.

(1) *Partitioning.* Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

(2) *Disaggregation.* Parties to disaggregation agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the disaggregator and disaggregatee each certifies that it will share responsibility for meeting the substantial service requirement for the geographic service area. If the parties choose this option and either party subsequently fails to satisfy its substantial service responsibility, both parties' licenses will be subject to forfeiture without further Commission action. Under the second option, both parties certify either that the disaggregator or the disaggregatee will meet the substantial service requirement for the geographic service area. If the parties choose this option, and the party responsible subsequently fails to meet the substantial service requirement, only that party's license will be subject to forfeiture without further Commission action.

[62 FR 9658, Mar. 3, 1997, as amended at 63 FR 68954, Dec. 14, 1998; 65 FR 3146, Jan. 20, 2000; 65 FR 57268, Sept. 21, 2000; 67 FR 45373, July 9, 2002; 69 FR 5715, Feb. 6, 2004]