

§ 90.814

(2) *Requirements for disaggregation.* Parties seeking authority to disaggregate must submit with their partial assignment application a certification signed by both parties stating which of the parties will be responsible for meeting the construction requirements for the market as set forth in § 90.665. Parties may agree to share responsibility for meeting the construction requirements. Parties that accept responsibility for meeting the construction requirements and later fail to do so will be subject to license forfeiture without further Commission action.

[62 FR 41219, July 31, 1997, as amended at 67 FR 45376, July 9, 2002; 68 FR 43001, July 21, 2003]

§ 90.814 Definitions.

(a) *Scope.* The definitions in this section apply to §§ 90.810 through 90.813, unless otherwise specified in those sections.

(b) A small business is an entity that either:

(1) Together with its affiliates, persons or entities that hold attributable interests in such entity, and their affiliates, has average gross revenues that are not more than \$3 million for the preceding three years; or

(2) Together with its affiliates, persons or entities that hold attributable interests in such entity, and their affiliates, has average gross revenues that are not more than \$15 million for the preceding three years.

[60 FR 48919, Sept. 21, 1995, as amended at 67 FR 45376, July 9, 2002; 68 FR 43001, July 21, 2003]

§ 90.815 Records maintenance and definitions.

(a) *Records maintenance.* All winning bidders qualifying as small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any documents necessary to establish eligibility as a small business, pursuant to § 90.814, and/or a consortium of small businesses. Licensees (and their successors in interest) shall maintain such files for the term of the license.

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(b) *Definitions.* The term *small business* used in this section is defined in § 90.814.

[68 FR 43001, July 21, 2003]

§ 90.816 Criteria for comparative 900 MHz SMR renewal proceedings.

(a) *Ultimate issue.* The ultimate issue in comparative renewal proceedings will be to determine, in light of the evidence adduced in the proceeding, what disposition of the applications would best serve the public interest, convenience and necessity.

(b) *Renewal expectancies.* The most important comparative factor to be considered in a comparative 900 MHz SMR renewal proceeding is a major preference, commonly referred to as a “renewal expectancy”.

(1) The 900 MHz SMR renewal applicant involved in a comparative renewal proceeding will receive a renewal expectancy, if its past record for the relevant license period demonstrates that:

(i) The renewal applicant has provided “substantial” service during its past license term. “Substantial” service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal; and

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

(2) In order to establish its right to a renewal expectancy, a 900 MHz 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:

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

(ii) An explanation of its record of expansion, including a timetable of the construction of new base sites to meet changes in demand for SMR service;

(iii) A description of its investments in its 900 MHz SMR system; and

(iv) Copies of all FCC orders finding the licensee to have violated the Communications Act or any FCC rule or policy; and a list of any pending proceedings that relate to any matter described in paragraph (b)(2) of this section.