

## § 1.821

### GRANTS BY RANDOM SELECTION

#### § 1.821 Scope.

The provisions of §§ 1.822 and 1.824 of this part apply as indicated to those applications for permits, licenses or authorizations in the Multichannel Multipoint Distribution Service for which action may be taken by the Wireless Telecommunications Bureau pursuant to delegated authority.

[63 FR 68920, Dec. 14, 1998, as amended at 67 FR 13224, Mar. 21, 2002]

#### § 1.822 General selection procedures.

(a) Mutually exclusive applications for permits and licenses in the services specified in § 1.821 may be designated for random selection according to the procedures established for each service. Following the random selection, the Commission shall determine whether the applicant is qualified to receive the permit or license. If, after reviewing the tentative selectee's application and pleadings properly filed against it, the Commission determines that a substantial and material question of fact exists, it shall designate the qualifying issue(s) for an expedited hearing.

(b) Expedited hearing procedures. (1) Hearings may be conducted by the Commission or an Administrative Law Judge. In the case of a question which requires oral testimony for its resolution, the hearing will be conducted by an Administrative Law Judge.

(2) Parties have ten (10) days from publication in the FEDERAL REGISTER of the hearing designation order to file notices of appearance.

(3) When the Commission, under § 1.221, issues an order stating the time, place, and nature of the hearing, this order shall instruct the applicant to submit its direct case in writing within thirty (30) days from the order's release date, or as otherwise specified in the order. The direct written case must set forth all those facts and circumstances related to the issues in the designation order. Documentary evidence upon which the applicant relies must be attached. Each exhibit must be numbered and must be accompanied by an affidavit from someone who has personal knowledge of the facts in the submission and who attests to the truth of the submission.

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(4) The order will also specify those petitioners that directly raised an issue which was designated and will inform these parties of their opportunity to submit a written rebuttal case within twenty (20) days after the direct case is due. The procedures in paragraph (b)(3) of this section will apply as to documentary evidence, exhibits, and affidavits.

(5) Appeal of initial decisions rendered by an Administrative Law Judge shall lie with the Commission.

[48 FR 27201, June 13, 1983. Redesignated and amended at 50 FR 5991, Feb. 13, 1985]

#### § 1.824 Random selection procedures for Multichannel Multipoint Distribution Service and Multipoint Distribution Service H-Channel stations.

(a) If there are mutually exclusive applications for an initial conditional license or license, the Commission may use the random selection process to select the conditional licensee or licensee. Each such random selection shall be conducted under the direction of the Office of the Managing Director in conjunction with the Office of the Secretary. Following the random selection, the Commission shall announce the tentative selectee and determine whether the applicant is qualified to receive the conditional license or license. If the Commission determines that the tentative selectee is qualified, it shall grant the application. In the event that the tentative selectee's application is denied, a second random selection will be conducted. Petitions for Reconsideration, Motions to Stay or Applications for Review may be submitted at the time the Commission grants or denies the application of the tentative selectee. The filing periods specified in the rules shall apply for such pleadings.

(b) Competing applications for conditional licenses and licenses shall be designated for random selection in accordance with §§ 1.1621, 1.1622 (a), (b), (c), (d), and (e), and 1.1623. No preferences pursuant to § 1.1622 (b)(2) or (b)(3) shall be granted to any MMDS or MDS H-channel applicant whose owners, when aggregated, have an ownership interest of more than 50 percent in the media of mass communication

whose service areas, as set forth at §1.1622 (e)(1) through (e)(7), wholly encompass or are encompassed by the protected service area contour, computed in accordance with §21.902(d) of this chapter, for which the license or conditional license is sought.

(c) Petitions to Deny may be filed only against the tentative selectee. These petitions must be filed within 30 days of the Public Notice announcing such tentative selection. A consolidated reply may be filed within 15 days of the due date for Petitions to Deny.

[50 FR 5992, Feb. 13, 1985, as amended at 56 FR 57815, Nov. 14, 1991]

### Subpart F—Wireless Radio Services Applications and Proceedings

SOURCE: 28 FR 12454, Nov. 22, 1963, unless otherwise noted.

#### SCOPE AND AUTHORITY

##### § 1.901 Basis and purpose.

These rules are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.* The purpose of these rules is to establish the requirements and conditions under which entities may be licensed in the Wireless Radio Services as described in this part and in parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97 and 101 of this chapter.

[68 FR 12755, Mar. 17, 2003]

##### § 1.902 Scope.

In case of any conflict between the rules set forth in this subpart and the rules set forth in Parts 13, 20, 22, 24, 26, 27, 74, 80, 87, 90, 95, 97, and 101 of title 47, chapter I of the Code of Federal Regulations, the rules in part 1 shall govern.

[68 FR 12755, Mar. 17, 2003]

##### § 1.903 Authorization required.

(a) *General rule.* Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of

this part, except as specified in paragraph (b) of this section.

(b) *Restrictions.* The holding of an authorization does not create any rights beyond the terms, conditions and period specified in the authorization. Authorizations may be granted upon proper application, provided that the Commission finds that the applicant is qualified in regard to citizenship, character, financial, technical and other criteria, and that the public interest, convenience and necessity will be served. See §§301, 308, and 309, 310 of this chapter.

(c) *Subscribers.* Authority for subscribers to operate mobile or fixed stations in the Wireless Radio Services, except for certain stations in the Rural Radiotelephone Service, is included in the authorization held by the licensee providing service to them. Subscribers are not required to apply for, and the Commission does not accept, applications from subscribers for individual mobile or fixed station authorizations in the Wireless Radio Services. Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in §22.703 of this chapter. Individual authorizations are required for end users of certain Specialized Mobile Radio Systems as provided in §90.655 of this chapter. In addition, certain ships and aircraft are required to be individually licensed under parts 80 and 87 of this chapter. See §§80.13, 87.18 of this chapter.

[63 FR 68921, Dec. 14, 1998, as amended at 70 FR 19305, Apr. 13, 2005]

##### § 1.907 Definitions.

*Antenna structure.* The term antenna structure includes the radiating and receiving elements, its supporting structures, towers, and all appurtenances mounted thereon.

*Application.* A request on a standard form for a station license as defined in §3(b) of the Communications Act, signed in accordance with §1.917 of this part, or a similar request to amend a pending application or to modify or renew an authorization. The term also encompasses requests to assign rights granted by the authorization or to transfer control of entities holding authorizations.