

its winning bid on Spectrum Blocks A through V.

[68 FR 43001, July 21, 2003]

§ 90.911 Partitioned licenses and disaggregated spectrum.

(a) *Eligibility.* Parties seeking approval for partitioning and disaggregation shall request an authorization for partial assignment of a license pursuant to § 90.153(c).

(b) *Technical standards*—(1) *Partitioning.* In the case of partitioning, requests for authorization for partial assignment of a license must include, as attachments, a description of the partitioned service area and a calculation of the population of the partitioned service area and the licensed geographic service area. The partitioned service area shall be defined by coordinate points at every 3 degrees along the partitioned service area unless an FCC recognized service area is utilized (*i.e.*, Major Trading Area, Basic Trading Area, Metropolitan Service Area, Rural Service Area or Economic Area) or county lines are followed. 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). In the case where an FCC recognized service area or county lines are utilized, applicants need only list the specific area(s) (through use of FCC designations or county names) that constitute the partitioned area.

(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.

(c) *License term.* The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's license term as provided for in §§ 90.629(a), 90.665(a) or 90.685(a).

(d) *Construction and channel usage requirements—incumbent licensees.* Parties seeking to acquire a partitioned license or disaggregated spectrum from an incumbent licensee will be required to construct and commence "service to

subscribers" all facilities acquired through such transactions within the original construction deadline for each facility as set forth in §§ 90.629 and 90.683. Failure to meet the individual construction deadline will result in the automatic termination of the facility's authorization.

(e) *Construction and channel usage requirements—EA licensees*—(1) *Licensees in channel blocks A, B and C*—(i) *Requirements for partitioning.* (A) The partitionee may certify that it will satisfy the applicable construction requirements set forth in § 90.685(c) for the partitioned license area; or

(B) The original licensee may certify that it has or will meet the three and five year construction requirements set forth in § 90.685(c) for the entire market.

(C) Applications requesting partial assignments of license for partitioning must include a certification by each party as to which of the above options they select.

(D) Partitionees must submit supporting documents showing compliance with the respective construction requirements within the appropriate time frames set forth in § 90.685(c).

(E) Failure by any partitionee to meet its respective construction requirements will result in the automatic cancellation of the partitioned license without further Commission action.

(ii) *Requirements for disaggregation.* Parties seeking authority to disaggregate spectrum from an EA licensee in Spectrum Blocks A, B and C must meet one of the following channel use requirements:

(A) The partitionee may certify that it will satisfy the channel usage requirements set forth in § 90.685(d) for the disaggregated spectrum; or

(B) The original licensee may certify that it has or will meet the channel usage requirements as set forth in § 90.685(d) for the entire spectrum block. In that case, the disaggregatee must only satisfy the requirements for "substantial service," as set forth in § 90.685(c), for the disaggregated spectrum within five years of the license grant.

(C) Applications requesting partial assignments of license for

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disaggregation must include a certification by each party as to which of the above options they select.

(D) Disaggregates must submit supporting documents showing compliance with the respective channel usage requirements within the appropriate time frames set forth in § 90.685(c).

(E) Failure by any disaggregatee to meet its respective channel usage requirements will result in the automatic cancellation of the disaggregated license without further Commission action.

(2) *Licensees in channel blocks D through V—(i) Requirements for partitioning.* Parties seeking authority to partition an EA license must meet one of the following construction requirements:

(A) The partitionee may certify that it will satisfy the applicable construction requirements set forth in § 90.685(c) for the partitioned license area; or

(B) The original licensee may certify that it has or will meet the construction requirements set forth in § 90.685(c) for the entire market.

(C) Applications requesting partial assignments of license for partitioning must include a certification by each party as to which of the above options they select.

(D) Partitionees must submit supporting documents showing compliance with the respective construction requirements within the appropriate time frames set forth in § 90.685(c).

(E) Failure by any partitionee to meet its respective construction requirements will result in the automatic cancellation of the partitioned license without further Commission action.

(ii) *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 § 90.685. 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

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forfeiture without further Commission action.

(f) *Certification concerning relocation of incumbent licensees.* Parties seeking approval of a partitioning or disaggregation agreement pursuant to this section must include a certification with their partial assignment of license application as to which party will be responsible for meeting the incumbent relocation requirements set forth at § 90.699.

[62 FR 41221, July 31, 1997, as amended at 63 FR 68973, Dec. 14, 1998; 67 FR 45377, July 9, 2002]

§ 90.912 Definitions.

(a) *Scope.* The definitions in this section apply to §§ 90.910 and 90.911, unless otherwise specified in those sections.

(b) *Small and very small businesses.* (1) A *small business* is an entity that together with its affiliates and controlling interests, has average gross revenues that do not exceed \$15 million for the three preceding years; or

(2) A *very small business* is an entity that together with its affiliates and controlling interests, has average gross revenues that do not exceed \$3 million for the three preceding years.

[62 FR 41222, July 31, 1997, as amended at 67 FR 45377, July 9, 2002; 68 FR 43001, July 21, 2003]

§ 90.913 Record maintenance and definitions.

(a) *Records maintenance.* All winning bidders qualifying as small or very small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any document necessary to establish eligibility as a small or very small business, as defined in § 90.912, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors in interest) shall maintain such files for the term of the license.

(b) *Definitions.* The terms *small and very small business* used in this section are defined in § 90.912.

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