

§ 90.814

disaggregated spectrum shall be the remainder of the original licensee's license term as provided for in § 90.665(a).

(e) *Construction requirements*—(1) *Requirements for partitioning*. Parties seeking authority to partition must meet one of the following construction requirements:

(i) The partitionee may certify that it will satisfy the applicable construction requirements set forth in § 90.665 for the partitioned license area; or

(ii) The original licensee may certify that it has or will meet the construction requirements set forth in § 90.665 for the entire market. In that case, the partitionee must only meet the requirements for renewal of its license for the partitioned license area.

(iii) Applications requesting partial assignments of license for partitioning must include a certification by each geographic area 800 MHz SMR licenses in the lower 230 channels will be awarded to small entities, as that term is defined by the SBA.

(iv) Partitionees must submit supporting documents showing compliance with the respective construction requirements within the appropriate time frames set forth in § 90.665.

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

(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]

47 CFR Ch. I (10–1–09 Edition)

§ 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.

(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.

(3) 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.

[60 FR 55485, Nov. 1, 1995]

Subpart V—Competitive Bidding Procedures for 800 MHz Specialized Mobile Radio Service

SOURCE: 61 FR 6159, Feb. 16, 1996, unless otherwise noted.

§ 90.901 800 MHz SMR spectrum subject to competitive bidding.

Mutually exclusive initial applications for 800 MHz band licenses in Spectrum Blocks A through V are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

[67 FR 45377, July 9, 2002]

§ 90.902 [Reserved]

§ 90.903 Competitive bidding mechanisms.

(a) *Sequencing.* The Wireless Telecommunications Bureau will establish and may vary the sequence in which 800 MHz SMR licenses for Spectrum Blocks A through V will be auctioned.

(b) *Grouping.* (1) All EA licenses for Spectrum Blocks A through V will be auctioned simultaneously, unless the Wireless Telecommunications Bureau announces, by Public Notice prior to the auction, an alternative method of grouping these licenses for auction.

(2) *Spectrum blocks D through V.* All EA licenses for Spectrum Blocks D through V will be auctioned by the following Regions:

(i) Region 1 (Northeast): The Northeast Region consists of the following MTAs: Boston-Providence, Buffalo-Rochester, New York, Philadelphia, and Pittsburgh.

(ii) Region 2 (South): The South Region consists of the following MTAs: Atlanta, Charlotte-Greensboro-Greenville-Raleigh, Jacksonville, Knoxville, Louisville-Lexington-Evansville, Nashville, Miami-Fort Lauderdale, Richmond-Norfolk, Tampa-St. Petersburg-Orlando, and Washington-Baltimore; and, Puerto Rico and United States Virgin Islands.

(iii) Region 3 (Midwest): The Midwest Region consists of the following MTAs: Chicago, Cincinnati-Dayton, Cleveland, Columbus, Des Moines-Quad Cities, Detroit, Indianapolis, Milwaukee, Minneapolis-St. Paul, and Omaha.

(iv) Region 4 (Central): The Central Region consists of the following MTAs: Birmingham, Dallas-Fort Worth, Denver, El Paso-Albuquerque, Houston, Kansas City, Little Rock, Memphis-Jackson, New Orleans-Baton Rouge,