

§ 95.807 Requesting regulatory status.

(a) Authorizations for systems in the 218–219 MHz Service will be granted to provide services on a common carrier basis or a private (non-common carrier and/or private internal-use) basis.

(1) *Initial applications.* An applicant will specify on FCC Form 601 if it is requesting authorizations to provide services on a common carrier, non-common carrier or private internal-use basis, of a combination thereof.

(2) *Amendment of pending applications.* Any pending application may be amended to:

(i) Change the carrier status requested; or

(ii) Add to the pending request in order to obtain both common carrier and private status in a single license.

(3) *Modification of license.* A licensee may modify a license to:

(i) Change the carrier status authorized; or

(ii) Add to the status authorized in order to obtain both common carrier and private status in a single license. Applications to change, or add to, carrier status in a license must be submitted on FCC Form 601 in accordance with § 1.1102 of this chapter.

(4) *Pre-existing licenses.* Licenses granted before April 9, 2001, are authorized to provide services on a private (non-common carrier) basis. Licensees may modify this initial status pursuant to paragraph (a)(3) of this section.

(b) An applicant or licensee may submit a petition at any time requesting clarification of the regulatory status required to provide a specific communications service.

[64 FR 59660, Nov. 3, 1999, as amended at 66 FR 9219, Feb. 7, 2001]

SYSTEM LICENSE REQUIREMENTS

§ 95.811 License requirements.

(a) Each 218–219 MHz Service system must be licensed in accordance with part 1, subpart F of this chapter.

(b) Each CTS where the antenna does not exceed 6.1 meters (20 feet) above ground or an existing structure (other than an antenna structure) and is outside the vicinity of certain receiving locations (see § 1.924 of this chapter) is authorized under the 218–219 MHz Sys-

tem license. All other CTS must be individually licensed.

(c) All CTSs not meeting the licensing criteria under paragraph (b) of this section are authorized under the 218–219 MHz Service system license.

(d) Each component RTU in a 218–219 MHz Service system is authorized under the system license or if associated with an individually licensed CTS, under that CTS license.

(e) Each CTS (regardless of whether it is individually licensed) and each RTU must be in compliance with the Commission's environmental rules (see part 1, subpart I of this chapter) and the Commission's rules pertaining to the construction, marking and lighting of antenna structures (see part 17 of this chapter).

[57 FR 8275, Mar. 9, 1992, as amended at 57 FR 36373, Aug. 13, 1992; 63 FR 68977, Dec. 14, 1998; 64 FR 59660, Nov. 3, 1999; 66 FR 9219, Feb. 7, 2001]

§ 95.812 License term.

(a) The term of each 218–219 MHz service system license is ten years from the date of original grant or renewal.

(b) Licenses for individually licensed CTSs will be issued for a period running concurrently with the license of the associated 218–219 MHz Service system with which it is licensed.

[64 FR 59660, Nov. 3, 1999, as amended at 66 FR 9219, Feb. 7, 2001]

§ 95.813 Eligibility.

(a) An entity is eligible to hold a 218–219 MHz Service system license and its associated individual CTS licenses if:

(1) The entity is an individual who is not a representative of a foreign government; or

(2) The entity is a partnership and no partner is a representative of a foreign government; or

(3) The entity is a corporation organized under the laws of the United States of America; or

(4) The entity is a trust and no beneficiary is a representative of a foreign government.

(b) An entity that loses its 218–219 MHz Service authorization due to failure to meet the construction requirements specified in § 95.833 of this part

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may not apply for a 218–219 MHz Service system license for three years from the date the Commission takes final action affirming that the 218–219 MHz Service license has been canceled.

[57 FR 8275, Mar. 9, 1992, as amended at 58 FR 25952, Apr. 29, 1993; 64 FR 59660, Nov. 3, 1999]

§ 95.815 License application.

(a) In addition to the requirements of part 1, subpart F of this chapter, each application for a 218–219 MHz Service system license must include a plan analyzing the co- and adjacent channel interference potential of the proposed system, identifying methods being used to minimize this interference, and showing how the proposed system will meet the service requirements set forth in § 95.831 of this part. This plan must be updated to reflect changes to the 218–219 MHz Service system design or construction.

(b) In addition to the requirements of part 1, subpart F of this chapter, each request by a 218–219 MHz Service system licensee to add, delete, or modify technical information of an individually licensed CTS (*see* § 95.811(b) of this part) must include a description of the system after the proposed addition, deletion, or modifications, including the population in the service area, the number of component CTSs, and an explanation of how the system will satisfy the service requirements specified in § 95.831 of this part.

[63 FR 68977, Dec. 14, 1998, as amended at 64 FR 59660, Nov. 3, 1999]

§ 95.816 Competitive bidding proceedings.

(a) Mutually exclusive initial applications for 218–219 MHz Service licenses 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 part.

(b) *Installment payments.* Eligible Licensees that elect resumption pursuant to Amendment of part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, *Report and Order and Memorandum Opinion and Order*, FCC 99–239 (released September 10, 1999) may continue to participate in the installment payment

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program. Eligible Licensees are those that were current in installment payments (*i.e.* less than ninety days delinquent) as of March 16, 1998, or those that had properly filed grace period requests under the former installment payment rules. All unpaid interest from grant date through election date will be capitalized into the principal as of Election Day creating a new principal amount. Installment payments must be made on a quarterly basis. Installment payments will be calculated based on new principal amount as of Election Day and will fully amortize over the remaining term of the license. The interest rate will equal the rate for five-year U.S. Treasury obligations at the grant date.

(c) *Eligibility for small business provisions.* (1) A small business is an entity that, together with its affiliates and controlling interests, has average gross revenues not to exceed \$15 million for the preceding three years.

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

(d) *Bidding credits.* A winning bidder that qualifies as a small business, as defined in this subsection, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in accordance with § 1.2110(f)(2)(i) of this chapter.

(e) Winning bidders in Auction No. 2, which took place on July 28–29, 1994, that, at the time of auction, met the qualifications under the Commission's rules then in effect, for small business status will receive a twenty-five percent bidding credit pursuant to Amendment of part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, *Report and Order and Memorandum Opinion and Order*, FCC 99–239 (released September 10, 1999).

[64 FR 59660, Nov. 3, 1999, as amended at 66 FR 9219, Feb. 7, 2001; 67 FR 45378, July 9, 2002; 68 FR 43001, July 21, 2003]