

§ 101.1413

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which an application was filed for this purpose with the regulatory agency.

(6) If no such certification or application is tendered to the Commission within ninety (90) days of final grant of the initial license, the Commission may cancel or rescind the license automatically, shall retain all monies paid to the Commission, and, based on the facts presented, shall take any other action it may deem appropriate.

NOTE TO §101.1412: Waivers of §101.1412(f) may be granted upon an affirmative showing:

(a) That the interest holder has less than a fifty percent voting interest in the licensee and there is an unaffiliated single holder of a fifty percent or greater voting interest;

(b) That the interest holder is not likely to affect the local market in an anticompetitive manner;

(c) That the interest holder is not involved in the operations of the licensee and does not have the ability to influence the licensee on a regular basis; and

(d) That grant of a waiver is in the public interest because the benefits to the public of common ownership outweigh any potential anticompetitive harm to the market.

[69 FR 31746, June 7, 2004, as amended at 69 FR 59146, Oct. 4, 2004]

§ 101.1413 License term and renewal expectancy.

(a) The MVDDS license term is ten years, beginning on the date of the initial authorization grant.

(b) Application of a renewal expectancy is based on a showing of substantial service at the end of five years into the license period and ten years into the license period. The substantial service requirement is defined as a service that is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal. At the end of five years into the license term and ten years into the license period, the Commission will consider factors such as:

(1) Whether the licensee’s operations service niche markets or focus on serving populations outside of areas served by other MVDDS licensees;

(2) Whether the licensee’s operations serve populations with limited access to telecommunications services; and

(3) A demonstration of service to a significant portion of the population or land area of the licensed area.

(c) The renewal application of an MVDDS licensee must include the following showings in order to claim a renewal expectancy:

(1) A coverage map depicting the served and unserved areas;

(2) A corresponding description of current service in terms of geographic coverage and population served or transmitter locations in the served areas; and

(3) Copies of any Commission Orders finding the licensee to have violated the Communications Act or any Commission rule or policy and a list of any pending proceedings that relate to any matter described by the requirements for the renewal expectancy.

§ 101.1415 Partitioning and disaggregation.

(a) MVDDS licensees are permitted to partition licensed geographic areas along county borders (Parishes in Louisiana or Territories in Alaska). Disaggregation will not be permitted by MVDDS licensees in the 12.2–12.7 GHz band. “Partitioning” is the assignment of geographic portions of a license along geopolitical or other boundaries. “Disaggregation” is the assignment of discrete portions or “blocks” of spectrum licensed to a geographic licensee or qualifying entity.

(b) Eligibility. (1) Parties seeking approval for partitioning shall request from the Commission an authorization for partial assignment of a license pursuant to §1.948 of this chapter.

(2) MVDDS licensees may apply to the Commission to partition their licensed geographic service areas to eligible entities and are free to partition their licensed spectrum at any time following the grant of a license.

(3) Any existing frequency coordination agreements shall convey with the assignment of the geographic area or spectrum, and shall remain in effect for the term of the agreement unless new agreements are reached.

(c) Technical standards. (1) Partitioning. In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to §1.948 of this chapter and list the partitioned service area on a schedule to the application.

(2) The geographic coordinates must be specified in degrees, minutes, and