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(1) A description of how the licensee has complied with the “substantial service” requirement; and

(2) 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 this paragraph (b)(2).

(c) 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.

[65 FR 59361, Oct. 5, 2000]

§ 101.531 [Reserved]

§ 101.533 Regulatory status.

(a) *Initial applications.* An applicant for a 24 GHz license must specify on FCC Form 601 if it is requesting authorization to provide services on a common carrier basis, a non-common carrier basis, or on both a common carrier and non-common carrier basis.

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

(1) Change the carrier status requested; or

(2) Add to the pending request in order to obtain both common carrier and non-common carrier status in a single license.

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

(1) Change the carrier status authorized; or

(2) Add to the status authorized in order to obtain both common carrier and non-common carrier status in a single license.

[65 FR 59361, Oct. 5, 2000]

§ 101.535 Geographic partitioning and spectrum aggregation/disaggregation.

(a) *Eligibility.* (1) 24 GHz licensees may apply to the Commission to partition their licensed geographic service areas to eligible entities and are free to determine the portion of their service areas to be partitioned. 24 GHz licensees may aggregate or disaggregate

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their licensed spectrum at any time following the grant of a license.

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

(b) *Technical standards—(1) Aggregation.* There is no limitation on the amount of spectrum that a 24 GHz licensee may aggregate.

(2) *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. 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).

(3) *Disaggregation.* Spectrum may be disaggregated in any amount. A licensee need not retain a minimum amount of spectrum.

(4) *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 § 101.526.

(d) *Construction requirements.* Applications requesting approval for partitioning or disaggregation must include a certification by each party stating that one or both parties will satisfy the construction requirement set forth in § 101.529. Failure by a party to meet its respective construction requirement will result in the automatic cancellation of its license without further Commission action.

[65 FR 59361, Oct. 5, 2000, as amended at 67 FR 46379, July 9, 2002]

§ 101.537 24 GHz band subject to competitive bidding.

Mutually exclusive initial applications for 24 GHz band licenses are subject to competitive bidding. The general competitive bidding procedures set

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forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

[67 FR 46379, July 9, 2002]

§ 101.538 Designated entities.

(a) *Eligibility for small business provisions.* (1) A very small business is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years.

(2) A small business is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$15 million for the preceding three years.

(3) An entrepreneur is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$40 million for the preceding three years.

(b) *Bidding credits.* 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 § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, 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 an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

[65 FR 59361, Oct. 5, 2000, as amended at 67 FR 46379, July 9, 2002; 68 FR 43002, July 21, 2003]

Subpart H—Private Operational Fixed Point-to-Point Microwave Service

§ 101.601 Eligibility.

Any person, or any governmental entity or agency, eligible for licensing in a radio service or pool under part 80, 87, or 90 of this chapter or any person proposing to provide communications service to such persons, governmental entities or agencies is eligible to hold a license under this subpart. This sub-

part shall not apply to stations offering MVDDS in the 12.2–12.7 GHz band.

[62 FR 18936, Apr. 17, 1997, as amended at 67 FR 43040, June 26, 2002]

§ 101.603 Permissible communications.

(a) Except as provided in paragraph (b) of this section, stations in this radio service may transmit communications as follows:

(1) On frequencies below 21,200 MHz, licensees may transmit their own communications, including the transmission of their products and information services, to their customers except that the distribution of video entertainment material to customers is permitted only as indicated in § 101.101 and paragraph (a)(2) of this section.

(2) In the frequency bands 6425–6525 MHz, 17,700–18,580 MHz, and on frequencies above 21,200 MHz, licensees may deliver any of their own products and services to any receiving location;

(3) Licensees may transmit the communications of their parent corporation, or of another subsidiary of the same parent, or their own subsidiary where the party to be served is regularly engaged in any of the activities that constitute the basis for eligibility to use the frequencies assigned;

(4) Licensees may transmit the communications of other parties in accordance with § 101.135;

(5) Licensees may transmit emergency communications unrelated to their activities in accordance with § 101.205;

(6) Licensees may transmit communications on a commercial basis to eligible users, among different premises of a single eligible user, or from one eligible user to another as part of transmissions by Digital Electronic Message Service systems on the frequencies provided for this purpose;

(7) Licensees may transmit program material from one location to another, provided that the frequencies do not serve as the final RF link in the chain of distribution of the program material to broadcast stations;

(b) Stations licensed in this radio service shall not:

(1) Render a common carrier service of any kind. However, licensees are allowed to lease excess capacity to common carriers. In addition, Specialized