

§ 27.1303

Holder and the Shared Wireless Broadband Network will operate on both the commercial spectrum licensed to the Upper 700 MHz D Block licensee and the public safety broadband spectrum licensed to the Public Safety Broadband Licensee. This subpart of the part 27 rules sets forth specific provisions relating to the Upper 700 MHz D Block license, the Upper 700 MHz D Block licensee, and other related entities as the Commission may require or allow with respect to the 700 MHz Public/Private Partnership. Subpart AA of the part 90 rules sets forth related provisions applicable to the Public Safety Broadband License and the Public Safety Broadband Licensee with respect to the 700 MHz Public/Private Partnership.

§ 27.1303 Upper 700 MHz D Block license conditions.

(a) The winning bidder at auction of the license for Block D in the 758–763 MHz and 788–793 MHz bands will be granted the Upper 700 MHz D Block license only after this winning bidder has entered, with the Public Safety Broadband Licensee and other related entities as the Commission may require or allow, into the Network Sharing Agreement (NSA) that has been approved by the Commission, has executed such other agreements as the Commission may require or allow, and has met all other necessary conditions pertaining to the award of this license.

(b) The Upper 700 MHz D Block licensee shall comply with all of the applicable requirements set forth in this part and subpart, including the construction requirements set forth in § 27.14, and shall comply with the terms of the NSA and such other agreements as the Commission may require or allow.

(c) The Upper 700 MHz D Block licensee shall have the exclusive right to build and operate the shared wireless broadband network, except as set forth in §§ 20.1330 and 90.1430 of this chapter.

(d) The Upper 700 MHz D Block licensee must not discontinue, reduce, or impair service to public safety users unless and until, pursuant to Commission procedures, it has obtained prior authorization from the Commission.

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(e) The Upper 700 MHz D Block licensee must provide the Public Safety Broadband Licensee with priority access during emergencies, as specified in the NSA.

(f) These conditions and requirements will apply to any related entities that the Commission may require or allow, as provided for in the NSA or otherwise as authorized by the Commission.

§ 27.1305 Shared wireless broadband network.

The Shared Wireless Broadband Network developed by the 700 MHz Public/Private Partnership must be designed to meet requirements associated with a nationwide, public safety broadband network. At a minimum, the network must incorporate the following features:

(a) Design for operation over a broadband technology platform that provides mobile voice, video, and data capability that is seamlessly interoperable across public safety local and state agencies, jurisdictions, and geographic areas, and that includes current and evolving state-of-the-art technologies reasonably made available in the commercial marketplace with features beneficial to the public safety community.

(b) Sufficient signal coverage to ensure reliable operation throughout the service area consistent with typical public safety communications systems.

(c) Sufficient robustness to meet the reliability and performance requirements of public safety.

(d) Sufficient capacity to meet the needs of public safety.

(e) Security and encryption consistent with state-of-the-art technologies.

(f) A mechanism to automatically prioritize public safety communications over commercial uses on a real-time basis consistent with the requirements of § 27.1307.

(g) Operational capabilities consistent with features and requirements that are typical of current and evolving state-of-the-art public safety systems.

(h) Operational control of the network by the Public Safety Broadband

Licensee to the extent necessary to ensure that public safety requirements are met.

§ 27.1307 Spectrum use in the network.

(a) *Spectrum use.* The shared wireless broadband network developed by the 700 MHz Public/Private Partnership will operate using spectrum associated with the Upper 700 MHz D Block license in the 758–763 MHz and 788–793 MHz bands and the Public Safety Broadband License in the adjacent 763–768 MHz and 793–798 MHz bands.

(b) *Access to spectrum in the 758–763 MHz and 788–793 MHz bands.* The Upper 700 MHz D Block licensee shall lease the spectrum rights associated with the Upper 700 MHz D Block license to the Operating Company, pursuant to the Commission's spectrum leasing rules. The spectrum leasing arrangement shall be a long-term *de facto* transfer leasing arrangement for the entire remaining term of the Upper 700 MHz D Block license. If the Upper 700 MHz D Block license is renewed, the parties will be required to renew this spectrum leasing arrangement as well.

(c) *Access to spectrum in the 763–768 MHz and 793–798 MHz bands.* The Public Safety Broadband Licensee, which holds the Public Safety Broadband License pursuant to part 90 rules, must lease the spectrum usage rights associated with this license, pursuant to a spectrum manager leasing arrangement set forth in part 1 subpart X, to the Upper 700 MHz D Block licensee and the Operating Company for the entire remaining term of the Public Safety Broadband License to effectuate the 700 MHz Public/Private Partnership. The Upper 700 MHz D Block licensee and the Operating Company are the only entities that are eligible to lease the spectrum usage rights associated with the Public Safety Broadband License to operate on the 763–768 and 793–798 MHz bands. If the Upper 700 MHz D Block license is cancelled, this spectrum leasing arrangement will automatically terminate.

(d) *Commercial operations in the 763–768 MHz and 793–798 MHz bands.* Commercial operations in the 763–768 MHz and 793–798 MHz bands through the spectrum manager leasing arrangement shall not cause harmful interference to

primary users (*i.e.*, public safety users) and cannot claim protection from harmful interference from the primary public safety operations in the 763–768 MHz and 793–798 MHz bands. The network providing commercial operations in the 763–768 MHz and 793–798 MHz bands through the spectrum manager leasing arrangement must be designed to automatically assign priority to public safety users, to the exclusion and/or immediate preemption of any commercial use on a dynamic, real-time priority basis, and to guarantee that public safety users suffer no harmful interference or interruption or degradation of service due to commercial operations in the 763–768 MHz and 793–798 MHz bands.

§ 27.1308 Organization and structure of the 700 MHz public/private partnership.

(a) The Upper 700 MHz D Block licensee, the Network Assets Holder and such other related entities as the Commission may require or allow shall be formed by the winning bidder of the Upper 700 MHz D Block license. The Upper 700 MHz D Block licensee, the Network Assets Holder, and related entities as the Commission may require or allow must be Special Purpose Bankruptcy Remote Entities formed to hold the license, to hold the shared network assets, or for such other purpose as the Commission may require or allow. The winning bidder of the Upper 700 MHz D Block license shall also form the Operating Company, which must also be a Special Purpose Bankruptcy Remote Entity. Upon issuance of the Upper 700 MHz D Block license, the winning bidder will assign all of its rights and obligations under the NSA to the Upper 700 MHz D Block licensee, Network Assets Holder, the Operating Company, and any other related entities that the Commission may require or allow.

(b) The Upper 700 MHz D Block licensee and other related entities as the Commission may require or allow shall have the obligation to build out the Shared Wireless Broadband Network, as provided for in the NSA or otherwise as authorized by the Commission.