

policy; and a list of any pending proceedings that relate to any matter described in this paragraph.

(d) 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.

**§ 101.1013 Permissible communications services.**

(a) Authorizations for stations in the Local Multipoint Distribution Service will be granted to provide services on a common carrier basis or a non-common carrier basis or on both a common carrier and non-common carrier basis in a single authorization.

(b) Stations may render any kind of communications service consistent with the Commission's rules and the regulatory status of the station to provide services on a common carrier or non-common carrier basis.

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

**§ 101.1017 Requesting regulatory status.**

(a) *Initial applications.* An applicant will 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.* (1) 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 non-common carrier status in a single license.

(2) Amendments to change, or add to, the carrier status in a pending application are minor amendments pursuant to § 1.927 of this chapter.

(c) *Modification of license.* (1) 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 non-common carrier status in a single license.

(2) Applications to change, or add to, the carrier status in a license are modifications not requiring prior Commission authorization filed under § 1.927 of this chapter. If the change results in the discontinuance, reduction, or impairment of an existing service, the licensee is also governed by § 101.305(b) or (c) and submits the application under § 1.927 of this chapter in conformance with the time frames and requirements of §§ 101.305 (b) or (c).

[62 FR 23168, Apr. 29, 1997, as amended at 63 FR 68984, Dec. 14, 1998]

**Subpart M—Competitive Bidding Procedures for LMDS**

SOURCE: 62 FR 23172, Apr. 29, 1997, unless otherwise noted.

**§ 101.1101 LMDS service subject to competitive bidding.**

Mutually exclusive initial applications for LMDS licenses are subject to competitive bidding procedures. 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 46379, July 9, 2002]

**§§ 101.1102–101.1105 [Reserved]**

**§ 101.1107 Bidding credits for very small businesses, small businesses and entrepreneurs.**

(a) A winning bidder that qualifies as a very small business, as defined in § 101.1112, or a consortium of very small businesses may use a bidding credit of 45 percent to lower the cost of its winning bid.

(b) A winning bidder that qualifies as a small business, as defined in § 101.1112, or a consortium of small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid.

(c) A winning bidder that qualifies as an entrepreneur, as defined in § 101.1112, or a consortium of entrepreneurs may use a bidding credit of 25 percent to lower the cost of its winning bid.

**§ 101.1109**

(d) The bidding credits referenced in paragraphs (a), (b) and (c) of this section are not cumulative.

[68 FR 43002, July 21, 2003]

**§ 101.1109 Records maintenance.**

All winning bidders qualifying as very small businesses, small businesses or entrepreneurs shall maintain at their principal place of business an updated file of ownership, revenue, and asset information, including any document necessary to establish eligibility as a very small business, small business or entrepreneur. Licensees (and their successors-in-interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (FCC Form 175), whichever is earlier.

[68 FR 43002, July 21, 2003]

**§ 101.1111 Partitioning and disaggregation.**

(a) *Definitions.* *Disaggregation.* The assignment of discrete portions or “blocks” of spectrum licensed to a geographic licensee or qualifying entity.

*Partitioning.* The assignment of geographic portions of a licensee’s authorized service area along geopolitical or other boundaries.

(b) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request an authorization for partial assignment of a license pursuant to §101.53. Parties shall submit the forms set forth in §101.15(e).

(2) Licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum at any time following the grant of their licenses.

(c) *Technical standards—(1) Partitioning.* In the case of partitioning, requests for authorization for partial assignment of a license must include, as an attachment, a description of the partitioned service area. The partitioned service area shall be defined by coordinate points at every 3 degrees along the partitioned service area unless an FCC recognized service area is utilized (*i.e.*, Major Trading Area, Basic

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Trading Area, Metropolitan Service Area, Rural Service Area or Economic Area) or county lines are followed. 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). In the case where an FCC recognized service area or county lines are utilized, applicants need only list the specific area(s) (through use of FCC designations or county names) that constitute the partitioned area. In such partitioning cases where an unjust enrichment payment is owed the Commission, the request for authorization for partial assignment of a license must include, as an attachment, a calculation of the population of the partitioned service area and the licensed geographic service area.

(2) *Disaggregation.* Spectrum may be disaggregated in any amount.

(3) *Combined partitioning and disaggregation.* The Commission will consider requests for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(d) *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 §101.67 of this chapter.

(e) *Construction requirements.* Applications requesting approval for partitioning or disaggregation must include a certification by each party that it will satisfy the construction requirement set forth in §101.1011 of this chapter. Failure by a party to meet its respective construction requirement will result in the automatic cancellation of its license without further Commission action.

[63 FR 26507, May 13, 1998]

**§ 101.1112 Definitions.**

(a) *Scope.* The definitions in this section apply to §§101.1101 through 101.1112, unless otherwise specified in those sections.

(b) *Very small business.* A very small business is an entity that, together with its affiliates and controlling interests, has average gross revenues for