

Federal Communications Commission

§ 24.709

application. This does not apply to petitioners who gain standing because of the major amendment.

(c) Parties who file frivolous petitions to deny may be subject to sanctions including monetary forfeitures, license revocation, if they are FCC licensees, and may be prohibited from participating in future auctions.

[59 FR 44072, Aug. 26, 1994, as amended at 65 FR 35855, June 6, 2000]

§ 24.431 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume “harmful electrical interference” to mean interference which would result in a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.

(b) Mutually exclusive applications filed on Form 175 for the initial provision of narrowband PCS service are subject to competitive bidding in accordance with the procedures in subpart F of this part and in 47 CFR part 1, subpart Q.

(c) An application will be entitled to comparative consideration with one or more conflicting applications only if the Commission determines that such comparative consideration will serve the public interest.

§§ 24.432–24.444 [Reserved]

Subpart H—Competitive Bidding Procedures for Broadband PCS

SOURCE: 59 FR 37604, July 22, 1994, unless otherwise noted.

§ 24.701 Broadband PCS subject to competitive bidding.

Mutually exclusive initial applications for broadband PCS 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 subpart.

[67 FR 45367, July 9, 2002]

§§ 24.702–24.708 [Reserved]

§ 24.709 Eligibility for licenses for frequency Blocks C or F.

(a) *General rule for licenses offered for closed bidding.* (1) No application is acceptable for filing and no license shall be granted to a winning bidder in closed bidding for frequency block C or frequency block F, unless the applicant, together with its affiliates and persons or entities that hold interests in the applicant and their affiliates, have had gross revenues of less than \$125 million in each of the last two years and total assets of less than \$500 million at the time the applicant's short-form application (Form 175) is filed.

(2) Any licensee awarded a license won in closed bidding pursuant to the eligibility requirements of this section (or pursuant to § 24.839(a)(2)) shall maintain its eligibility until at least five years from the date of initial license grant, except that a licensee's (or other attributable entity's) increased gross revenues or increased total assets due to nonattributable equity investments (i.e., from sources whose gross revenues and total assets are not considered under paragraph (b) of this section), debt financing, revenue from operations or other investments, business development, or expanded service shall not be considered.

(3) Tiers. (i) For purposes of determining spectrum to which the eligibility requirements of this section are applicable, the BTA service areas (see § 24.202(b)) are divided into two tiers according to their population as follows:

(A) *Tier 1:* BTA service areas with population equal to or greater than 2.5 million;

(B) *Tier 2:* BTA service areas with population less than 2.5 million.

(ii) For Auction No. 35, the population of individual BTA service areas will be based on the 1990 census. For auctions beginning after the start of Auction No. 35, the population of individual BTA service areas will be based on the most recent available decennial census.