

(iii) A description of its investments in its cellular system; and

(iv) 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.

(3) 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.

(b) *Additional comparative issues.* The following additional comparative issues will be included in comparative cellular renewal proceedings, if a full comparative hearing is conducted pursuant to § 22.935(c).

(1) To determine on a comparative basis the geographic areas and population that each applicant proposes to serve; to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(2) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner in order to meet anticipated increasing demand for *both* local and roamer service;

(3) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); and

(4) To determine on a comparative basis each applicant's past performance in the cellular industry or another business of comparable type and size.

(c) *Additional showings for competing applications.* With respect to evidence introduced pursuant to paragraph (b)(3) of this section, any applicant filing a competing application against a cellular renewal application (competing applicant) who claims a preference for offering any service not currently offered

by the incumbent licensee must demonstrate that there is demand for that new service and also present a business plan showing that the competing applicant can operate the system economically. Any competing applicant who proposes to replace analog technology with digital technology will receive no credit for its proposal unless it submits a business plan showing how it will operate its system economically and how it will provide more comprehensive service than does the incumbent licensee with existing and implemented cellular technology.

§ 22.943 Limitations on transfer of control and assignment for authorizations issued as a result of a comparative renewal proceeding.

Except as otherwise provided in this section, the FCC does not accept applications for consent to transfer of control or for assignment of the authorization of a cellular system that has been acquired by the current licensee for the first time as a result of a comparative renewal proceeding until the system has provided service to subscribers for at least three years.

(a) The FCC may accept and grant applications for consent to transfer of control or for assignment of the authorization of a cellular system that is to be transferred as a part of a bona fide sale of an on-going business to which the cellular operation is incidental.

(b) The FCC may accept and grant applications for consent to transfer of control or for assignment of the authorization of a cellular system that is to be transferred as a result of the death of the licensee.

(c) The FCC may accept and grant applications for consent to transfer of control or for assignment of authorization if the transfer or assignment is pro forma and does not involve a change in ownership.

[67 FR 77192, Dec. 17, 2002]

§ 22.946 Construction period for Unserved Area authorizations.

The construction period applicable to new or modified Cellular facilities for which an authorization is granted pursuant to the Unserved Area process is

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one year, beginning on the date the authorization is granted. To satisfy this requirement, a Cellular system must be providing service to mobile stations operated by subscribers and roamers. The licensee must notify the FCC (FCC Form 601) after the requirements of this section are met. *See* § 1.946 of this chapter. *See also* § 22.949.

[79 FR 72151, Dec. 5, 2014]

§ 22.947 [Reserved]

§ 22.948 Geographic partitioning and spectrum disaggregation; spectrum leasing.

Cellular licensees may apply to partition any portion of their licensed Cellular Geographic Service Area (CGSA) or to disaggregate their licensed spectrum at any time following the grant of their authorization(s). Parties seeking approval for partitioning and disaggregation shall request from the FCC an authorization for partial assignment of a license pursuant to § 1.948 of this chapter. *See also* paragraph (d) of this section regarding spectrum leasing.

(a) *Partitioning, disaggregation, or combined partitioning and disaggregation.* Applicants must file FCC Form 603 (“Assignment of Authorization and Transfer of Control”) pursuant to § 1.948 of this chapter, as well as GIS map files and a reduced-size PDF map pursuant to § 22.953 for both the assignor and assignee.

(b) *Field strength limit.* For purposes of partitioning and disaggregation, Cellular systems must be designed so as to comply with § 22.983.

(c) *License term.* The license term for a partitioned license area and for disaggregated spectrum will be the remainder of the original license term.

(d) *Spectrum leasing.* Cellular spectrum leasing is subject to all applicable provisions of subpart X of part 1 of this chapter as well as the provisions of paragraph (a) of this section, except that applicants must file FCC Form 608 (“Application or Notification for Spectrum Leasing Arrangement or Private Commons Arrangement”), not FCC Form 603.

[79 FR 72152, Dec. 5, 2014]

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§ 22.949 Unserved Area licensing; minimum coverage requirements.

(a) The Unserved Area licensing process described in this section is on-going and applications may be filed at any time, subject to the following coverage requirements:

(1) Applicants for authority to operate a new Cellular system or expand an existing Cellular Geographic Service Area (CGSA) in Unserved Area must propose a CGSA or CGSA expansion of at least 130 contiguous square kilometers (50 contiguous square miles) using the methodology of § 22.911.

(2) Applicants for authority to operate a new Cellular system must not propose coverage of water areas only (or water areas and uninhabited islands or reefs only), except for Unserved Area in the Gulf of Mexico Service Area.

(b) There is no limit to the number of Unserved Area applications that may be granted on each channel block of each CMA that is subject to the procedures of this section. Consequently, Unserved Area applications are mutually exclusive only if the proposed CGSAs would overlap. Mutually exclusive applications are processed using the general procedures under § 22.131.

(c) Unserved Area applications under this section may propose a CGSA covering more than one CMA. Each Unserved Area application must request authorization for only one CGSA and must not propose a CGSA overlap with an existing CGSA.

(d) Settlements among some, but not all, applicants with mutually exclusive applications for Unserved Area (partial settlements) under this section are prohibited. Settlements among all applicants with mutually exclusive applications under this section (full settlements) are allowed and must be filed no later than the date that the FCC Form 175 (short-form) is filed.

[79 FR 72152, Dec. 5, 2014]

§ 22.950 Provision of service in the Gulf of Mexico Service Area (GMSA).

The GMSA has been divided into two areas for licensing purposes, the Gulf of Mexico Exclusive Zone (GMEZ) and the Gulf of Mexico Coastal Zone (GMCZ). This section describes these areas and