

not comparable to the former facilities, the AWS licensee must remedy the defects or pay to relocate the BRS licensee to one of the following: Its former or equivalent 2 GHz channels, another comparable frequency band, a land-line system, or any other facility that satisfies the requirements specified in paragraph (b) of this section. This trial period commences on the date that the BRS licensee begins full operation of the replacement system. If the BRS licensee has retained its 2 GHz authorization during the trial period, it must return the license to the Commission at the end of the twelve months.

#### § 27.1253 Sunset Provisions.

(a) BRS licensees will maintain primary status in the 2150–2160/62 MHz band unless and until an AWS licensee requires use of the spectrum. AWS licensees are not required to pay relocation costs after the relocation rules sunset (*i.e.* fifteen years from the date the first AWS license is issued in the band). Once the relocation rules sunset, an AWS licensee may require the incumbent to cease operations, provided that the AWS licensee intends to turn on a system within interference range of the incumbent, as determined by § 27.1255. AWS licensee notification to the affected BRS licensee must be in writing and must provide the incumbent with no less than six months to vacate the spectrum. After the six-month notice period has expired, the BRS licensee must turn its license back into the Commission, unless the parties have entered into an agreement which allows the BRS licensee to continue to operate on a mutually agreed upon basis.

(b) If the parties cannot agree on a schedule or an alternative arrangement, requests for extension will be accepted and reviewed on a case-by-case basis. The Commission will grant such extensions only if the incumbent can demonstrate that:

(1) It cannot relocate within the six-month period (*e.g.*, because no alternative spectrum or other reasonable option is available); and

(2) The public interest would be harmed if the incumbent is forced to terminate operations.

#### § 27.1254 Eligibility.

(a) BRS licensees with primary status in the 2150–2162 MHz band as of June 23, 2006, will be eligible for relocation insofar as they have facilities that are constructed and in use as of this date.

(b) *Future licensing and modifications.* After June 23, 2006, all major modifications to existing BRS systems in use in the 2150–2160/62 MHz band will be authorized on a secondary basis to AWS systems, unless the incumbent affirmatively justifies primary status and the incumbent BRS licensee establishes that the modification would not add to the relocation costs of AWS licensees. Major modifications include the following:

(1) Additions of new transmit sites or base stations made after June 23, 2006;

(2) Changes to existing facilities made after June 23, 2006, that would increase the size or coverage of the service area, or interference potential, and that would also increase the throughput of an existing system (*e.g.*, sector splits in the antenna system). Modifications to fully utilize the existing throughput of existing facilities (*e.g.*, to add customers) will not be considered major modifications even if such changes increase the size or coverage of the service area, or interference potential.

#### § 27.1255 Relocation Criteria for Broadband Radio Service Licensees in the 2150–2160/62 MHz band.

(a) An AWS licensee in the 2150–2160/62 MHz band, prior to initiating operations from any base or fixed station that is co-channel to the 2150–2160/62 MHz band, must relocate any incumbent BRS system that is within the line of sight of the AWS licensee's base or fixed station. For purposes of this section, a determination of whether an AWS facility is within the line of sight of a BRS system will be made as follows:

(1) For a BRS system using the 2150–2160/62 MHz band exclusively to provide one-way transmissions to subscribers, the AWS licensee will determine whether there is an unobstructed signal path (line of sight) to the incumbent licensee's geographic service area (GSA), based on the following criteria:

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use of 9.1 meters (30 feet) for the receiving antenna height, use of the actual transmitting antenna height and terrain elevation, and assumption of 4/3 Earth radius propagation conditions. Terrain elevation data must be obtained from the U.S. Geological Survey (USGS) 3-second database. All coordinates used in carrying out the required analysis shall be based upon use of NAD-83.

(2) For all other BRS systems using the 2150–2160/62 MHz band, the AWS licensee will determine whether there is an unobstructed signal path (line of sight) to the incumbent licensee's receive station hub using the method prescribed in "Methods for Predicting Interference from Response Station Transmitters and to Response Station Hubs and for Supplying Data on Response Station Systems. MM Docket 97–217," in Amendment of Parts 1, 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, MM Docket No. 97–217, *Report and Order on Further Reconsideration and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 14566 at 14610, Appendix D.

(b) Any AWS licensee in the 2110–2180 MHz band that causes actual and demonstrable interference to a BRS licensee in the 2150–2160/62 MHz band must take steps to eliminate the harmful interference, up to and including relocation of the BRS licensee, regardless of whether it would be required to do so under paragraph (a), of this section.

### Subpart N—600 MHz Band

SOURCE: 79 FR 48539, Aug. 15, 2014, unless otherwise noted.

## § 27.1300 600 MHz band subject to competitive bidding.

As required by section 6403(c) of the Spectrum Act, applications for 600 MHz band initial licenses are subject to competitive bidding. The general competitive bidding procedures set forth in 47 CFR part 1, subpart Q will apply unless otherwise provided in this subpart.

## 47 CFR Ch. I (10–1–15 Edition)

### § 27.1301 Designated entities in the 600 MHz band.

Eligibility for small business provisions:

(a) *Small business.* (1) A small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average gross revenues not exceeding \$40 million for the preceding three (3) years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average gross revenues not exceeding \$15 million for the preceding three (3) years.

(b) *Bidding credits.* 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)(iii) of this chapter. 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)(ii) of this chapter.

EFFECTIVE DATE NOTE: At 80 FR 56817, Sept. 18, 2015, § 27.1301 was revised, effective Nov. 17, 2015. For the convenience of the user, the revised text is set forth as follows:

### § 27.1301 Designated entities in the 600 MHz band.

(a) *Small business.* (1) A small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$55 million for the preceding three (3) years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding \$20 million for the preceding three (3) years.

(b) *Eligible rural service provider.* For purposes of this section, an eligible rural service provider is an entity that meets the criteria specified in § 1.2110(f)(4) of this chapter.

(c) *Bidding credits.* (1) 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)(i)(C) of this chapter. A winning bidder that qualifies as a very small