

(i) The partitionee may certify that it will satisfy the applicable construction requirements set forth in § 24.203 for the partitioned license area; or

(ii) The original licensee may certify that it has or will meet its five-year construction requirement and will meet the ten-year construction requirement, as set forth in § 24.203, for the entire license area. In that case, the partitionee must only satisfy the requirements for “substantial service,” as set forth in § 24.16(a), for the partitioned license area by the end of the original ten-year license term of the licensee.

(iii) Applications requesting partial assignments of license for partitioning must include a certification by each party as to which of the above construction options they select.

(iv) Partitionees must submit supporting documents showing compliance with the respective construction requirements within the appropriate five- and ten-year construction benchmarks set forth in § 24.203.

(v) Failure by any partitionee to meet its respective construction requirements will result in the automatic cancellation of the partitioned or disaggregated license without further Commission action.

(2) *Requirements for disaggregation.* Parties seeking authority to disaggregate must submit with their partial assignment application a certification signed by both parties stating which of the parties will be responsible for meeting the five- and ten-year construction requirements for the PCS market as set forth in § 24.203. Parties may agree to share responsibility for meeting the construction requirements. Parties that accept responsibility for meeting the construction requirements and later fail to do so will be subject to license forfeiture without further Commission action.

[62 FR 661, Jan. 6, 1997, as amended at 63 FR 68953, Dec. 14, 1998; 65 FR 53638, Sept. 5, 2000; 67 FR 45371, July 9, 2002; 68 FR 42999, July 21, 2003]

§ 24.716 Installment payments for licenses for frequency Block F.

Installment Payments. Each eligible licensee of frequency Block F may pay the remaining 80 percent of the net

auction price for the license in installment payments pursuant to § 1.2110(g) of this chapter and under the following terms:

(a) For an eligible licensee with gross revenues exceeding \$75 million (calculated in accordance with § 1.2110(b) of this chapter and, when applicable, § 24.709(b)) in each of the two preceding years (calculated in accordance with § 1.2110(n) of this chapter), interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 3.5 percent; payments shall include both principal and interest amortized over the term of the license;

(b) For an eligible licensee with gross revenues not exceeding \$75 million (calculated in accordance with § 1.2110(b) of this chapter and, when applicable, § 24.709(b)) in each of the two preceding years (calculated in accordance with § 1.2110(n) of this chapter), interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first year and payments of interest and principal amortized over the remaining nine years of the license term; or

(c) For an eligible licensee that qualifies as a small business or as a consortium of small businesses, interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted; payments shall include interest only for the first two years and payments of interest and principal amortized over the remaining eight years of the license term.

[67 FR 45371, July 9, 2002, as amended at 68 FR 42999, July 21, 2003]

§ 24.717 Bidding credits for licenses for frequency Block F.

(a) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a small business, as defined in § 24.720(b)(1), or a consortium of small businesses may use a bidding credit of fifteen percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid.

(b) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a very small business, as defined in § 24.720(b)(2), or a consortium of very small businesses may use a bidding credit of twenty-five percent as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid.

[68 FR 42999, July 21, 2003]

§ 24.720 Definitions.

(a) *Scope.* The definitions in this section apply to §§ 24.709 through 24.717, unless otherwise specified in those sections.

(b) *Small and very small business.* (1) A *small business* is an entity that, together with its *affiliates* and persons or entities that hold interest in such entity and their *affiliates*, has average annual *gross revenues* that are not more than \$40 million for the preceding three years.

(2) A *very small business* is an entity that, together with its *affiliates* and persons or entities that hold interests in such entity and their *affiliates*, has average annual *gross revenues* that are not more than \$15 million for the preceding three years.

(c) *Institutional Investor.* An *institutional investor* is an insurance company, a bank holding stock in trust accounts through its trust department, or an investment company as defined in 15 U.S.C. 80a-3(a), including within such definition any entity that would otherwise meet the definition of investment company under 15 U.S.C. 80a-3(a) but is excluded by the exemptions set forth in 15 U.S.C. 80a-3(b) and (c), without regard to whether such entity is an issuer of securities; provided that, if such investment company is owned, in whole or in part, by other entities, such investment company, such other entities and the *affiliates* of such other entities, taken as a whole, must be primarily engaged in the business of investing, reinvesting or trading in securities or in distributing or providing investment management services for securities.

(d) *Nonattributable Equity*—(1) *Non-attributable equity* shall mean:

(i) For corporations, voting stock or non-voting stock that includes no more

than twenty-five percent of the total voting equity, including the right to vote such stock through a voting trust or other arrangement;

(ii) For partnerships, joint ventures and other non-corporate entities, limited partnership interests and similar interests that do not afford the power to exercise control of the entity.

(2) For purposes of assessing compliance with the equity limits in § 24.709 (b)(1)(iii)(A) and (b)(1)(iv)(A), where such interests are not held directly in the applicant, the total equity held by a person or entity shall be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain.

(e) *Control Group.* A *control group* is an entity, or a group of individuals or entities, that possesses *de jure* control and *de facto* control of an applicant or licensee, and as to which the applicant's or licensee's charters, bylaws, agreements and any other relevant documents (and amendments thereto) provide:

(1) That the entity and/or its members own unconditionally at least 50.1 percent of the total voting interests of a corporation;

(2) That the entity and/or its members receive at least 50.1 percent of the annual distribution or any dividends paid on the voting stock of a corporation;

(3) That, in the event of dissolution or liquidation of a corporation, the entity and/or its members are entitled to receive 100 percent of the value of each share of stock in its possession and a percentage of the retained earnings of the concern that is equivalent to the amount of equity held in the corporation; and

(4) That, for other types of businesses, the entity and/or its members have the right to receive dividends, profits and regular and liquidating distributions from the business in proportion to the amount of equity held in the business.

NOTE TO PARAGRAPH (e): Voting control does not always assure *de facto* control, such as for example, when the voting stock of the control group is widely dispersed (see e.g., § 1.2110(c)(5)(ii)(C) of this chapter).