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for more than eight years or beyond the end of the license term if no broadcast service had been provided, whichever period is shorter in length.

(c) *1390–1392 MHz band.* Initial authorizations for the 1390–1392 MHz band will have a term not to exceed ten years from the date of initial issuance or renewal.

(d) *The paired 1392–1395 and 1432–1435 MHz bands.* Initial WCS authorizations for the paired 1392–1395 MHz and 1432–1435 MHz bands will have a term not to exceed ten years from the date of initial issuance or renewal.

(e) *1670–1675 MHz band.* Initial authorizations for the 1670–1675 MHz band will have a term not to exceed ten years from the date of initial issuance or renewal.

(f) [Reserved]

(g) *1710–1755 MHz and 2110–2155 MHz bands.* Authorizations for the 1710–1755 MHz and 2110–2155 MHz bands will have a term not to exceed ten years from the date of initial issuance or renewal, except that authorizations issued on or before December 31, 2009, shall have a term of fifteen years.

(h) *BRS and EBS.* BRS and EBS authorizations shall have a term not to exceed ten years from the date of original issuance or renewal. Unless otherwise specified by the Commission, incumbent BRS authorizations shall expire on May 1 in the year of expiration.

(i) *2000–2020 MHz and 2180–2200 MHz bands.* Authorizations for the 2000–2020 MHz and 2180–2200 MHz bands will have a term not to exceed ten years from the date of issuance or renewal.

(j) *1915–1920 MHz and 1995–2000 MHz bands.* Authorizations for 1915–1920 MHz and 1995–2000 MHz bands will have a term not to exceed ten years from the date of issuance or renewal.

(k) *1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands.* Authorizations for the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands will have a term not to exceed twelve (12) years from the date of issuance and ten (10) years from the date of any subsequent license renewal.

(l) *600 MHz band.* Authorizations for the 600 MHz band will have an initial term not to exceed twelve years from the date of issuance and ten years from

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the date of any subsequent license renewal.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 27.13, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 27.14 Construction requirements; Criteria for renewal.

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for the 600 MHz band, Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band, and with the exception of licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands, the 2000–2020 MHz and 2180–2200 MHz bands, or 1695–1710 MHz, 1755–1780 MHz and 2155–2180 MHz bands, must, as a performance requirement, make a showing of “substantial service” in their license area within the prescribed license term set forth in § 27.13. “Substantial service” is defined as service which is sound, favorable and substantially above a level of mediocre service which just might minimally warrant renewal. Failure by any licensee to meet this requirement will result in forfeiture of the license and the licensee will be ineligible to regain it.

(b) A renewal applicant involved in a comparative renewal proceeding shall receive a preference, commonly referred to as a renewal expectancy, which is the most important comparative factor to be considered in the proceeding, if its past record for the relevant license period demonstrates that:

(1) The renewal applicant has provided “substantial” service during its past license term; and

(2) The renewal applicant has substantially complied with applicable FCC rules, policies and the Communications Act of 1934, as amended.

(c) In order to establish its right to a renewal expectancy, a WCS renewal applicant involved in a comparative renewal proceeding must submit a showing explaining why it should receive a renewal expectancy. At a minimum, this showing must include:

(1) A description of its current service in terms of geographic coverage and population served;

(2) An explanation of its record of expansion, including a timetable of new construction to meet changes in demand for service;

(3) A description of its investments in its WCS system; and

(4) 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.

(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.

(e) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block C in the 710–716 MHz and 740–746 MHz bands, Block D in the 716–722 MHz band, Block E in the 722–728 MHz band, or Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands. Each of these licensees must file a renewal application in accordance with the provisions set forth in § 1.949, and must make a showing of substantial service, independent of its performance requirements, as a condition for renewal at the end of each license term.

(f) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for the 600 MHz band, 698–746 MHz, 747–762 MHz, and 777–792 MHz bands or licensees holding AWS authorizations for the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands, or the 1695–1710 MHz, or the 1755–1780 MHz and 2155–2180 MHz bands. These licensees must file a renewal application in

accordance with the provisions set forth in § 1.949 of this chapter.

(g) WCS licensees holding EA authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, cellular market authorizations for Block B in the 704–710 MHz and 734–740 MHz bands, or EA authorizations for Block E in the 722–728 MHz band, if the results of the first auction in which licenses for such authorizations are offered satisfy the reserve price for the applicable block, shall provide signal coverage and offer service over at least 35 percent of the geographic area of each of their license authorizations no later than June 13, 2013 (or within four years of initial license grant if the initial authorization in a market is granted after June 13, 2009), and shall provide such service over at least 70 percent of the geographic area of each of these authorizations by the end of the license term. In applying these geographic benchmarks, licensees are not required to include land owned or administered by government as a part of the relevant service area. Licensees may count covered government land for purposes of meeting their geographic construction benchmark, but are required to add the covered government land to the total geographic area used for measurement purposes. Licensees are required to include those populated lands held by tribal governments and those held by the Federal Government in trust or for the benefit of a recognized tribe.

(1) If an EA or CMA licensee holding an authorization in these particular blocks fails to provide signal coverage and offer service over at least 35 percent of the geographic area of its license authorization by no later than June 13, 2013 (or within four years of initial license grant, if the initial authorization in a market is granted after June 13, 2009), the term of that license authorization will be reduced by two years and such licensee may be subject to enforcement action, including forfeitures. In addition, an EA or CMA licensee that provides signal coverage and offers service at a level that is below this interim benchmark may lose authority to operate in part of the remaining unserved areas of the license.

(2) If any such EA or CMA licensee fails to provide signal coverage and offer service to at least 70 percent of the geographic area of its license authorization by the end of the license term, that licensee's authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service, and those unserved areas will become available for reassignment by the Commission. Such licensee may also be subject to enforcement action, including forfeitures. In addition, an EA or CMA licensee that provides signal coverage and offers service at a level that is below this end-of-term benchmark may be subject to license termination. In the event that a licensee's authority to operate in a license area terminates automatically without Commission action, such areas will become available for reassignment pursuant to the procedures in paragraph (j) of this section.

(3) For licenses under paragraph (g) of this section, the geographic service area to be made available for reassignment must include a contiguous area of at least 130 square kilometers (50 square miles), and areas smaller than a contiguous area of at least 130 square kilometers (50 square miles) will not be deemed unserved.

(h) WCS licensees holding REAG authorizations for Block C in the 746–757 MHz and 776–787 MHz bands or REAG authorizations for Block C2 in the 752–757 MHz and 782–787 MHz bands shall provide signal coverage and offer service over at least 40 percent of the population in each EA comprising the REAG license area no later than June 13, 2013 (or within four years of initial license grant, if the initial authorization in a market is granted after June 13, 2009), and shall provide such service over at least 75 percent of the population of each of these EAs by the end of the license term. For purposes of compliance with this requirement, licensees should determine population based on the most recently available U.S. Census Data.

(1) If a licensee holding a Block C authorization fails to provide signal coverage and offer service over at least 40 percent of the population in each EA comprising the REAG license area by

no later than June 13, 2013 (or within four years of initial license grant if the initial authorization in a market is granted after June 13, 2009), the term of the license authorization will be reduced by two years and such licensee may be subject to enforcement action, including forfeitures. In addition, a licensee that provides signal coverage and offers service at a level that is below this interim benchmark may lose authority to operate in part of the remaining unserved areas of the license.

(2) If a licensee holding a Block C authorization fails to provide signal coverage and offer service over at least 75 percent of the population in any EA comprising the REAG license area by the end of the license term, for each such EA that licensee's authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service. Such licensee may also be subject to enforcement action, including forfeitures. In the event that a licensee's authority to operate in a license area terminates automatically without Commission action, such areas will become available for reassignment pursuant to the procedures in paragraph (j) of this section. In addition, a REAG licensee that provides signal coverage and offers service at a level that is below this end-of-term benchmark within any EA may be subject to license termination within that EA.

(3) For licenses under paragraph (h), the geographic service area to be made available for reassignment must include a contiguous area of at least 130 square kilometers (50 square miles), and areas smaller than a contiguous area of at least 130 square kilometers (50 square miles) will not be deemed unserved.

(i) WCS licensees holding EA authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, cellular market authorizations for Block B in the 704–710 MHz and 734–740 MHz bands, or EA authorizations for Block E in the 722–728 MHz band, if the results of the first auction in which licenses for such authorizations in Blocks A, B, and E are offered do not satisfy the reserve price for the applicable block, as well as EA

authorizations for Block C1 in the 746–752 MHz and 776–782 MHz bands, are subject to the following:

(1) If a licensee holding a cellular market area or EA authorization subject to this paragraph (i) fails to provide signal coverage and offer service over at least 40 percent of the population in its license area by no later than June 13, 2013 (or within four years of initial license grant, if the initial authorization in a market is granted after June 13, 2009), the term of that license authorization will be reduced by two years and such licensee may be subject to enforcement action, including forfeitures. In addition, such licensee that provides signal coverage and offers service at a level that is below this interim benchmark may lose authority to operate in part of the remaining unserved areas of the license. For purposes of compliance with this requirement, licensees should determine population based on the most recently available U.S. Census Data.

(2) If a licensee holding a cellular market area or EA authorization subject to this paragraph (i) fails to provide signal coverage and offer service over at least 75 percent of the population in its license area by the end of the license term, that licensee's authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service, and those unserved areas will become available for reassignment by the Commission. Such licensee may also be subject to enforcement action, including forfeitures. In the event that a licensee's authority to operate in a license area terminates automatically without Commission action, such areas will become available for reassignment pursuant to the procedures in paragraph (j) of this section. In addition, such a licensee that provides signal coverage and offers service at a level that is below this end-of-term benchmark may be subject to license termination. For purposes of compliance with this requirement, licensees should determine population based on the most recently available U.S. Census Data.

(3) For licenses under paragraph (i), the geographic service area to be made

available for reassignment must include a contiguous area of at least 130 square kilometers (50 square miles), and areas smaller than a contiguous area of at least 130 square kilometers (50 square miles) will not be deemed unserved.

(j) In the event that a licensee's authority to operate in a license area terminates automatically under paragraphs (g), (h), or (i) of this section, such areas will become available for reassignment pursuant to the following procedures:

(1) The Wireless Telecommunications Bureau is delegated authority to announce by public notice that these license areas will be made available and establish a 30-day window during which third parties may file license applications to serve these areas. During this 30-day period, licensees that had their authority to operate terminate automatically for unserved areas may not file applications to provide service to these areas. Applications filed by third parties that propose areas overlapping with other applications will be deemed mutually exclusive, and will be resolved through an auction. The Wireless Telecommunications Bureau, by public notice, may specify a limited period before the filing of short-form applications (FCC Form 175) during which applicants may enter into a settlement to resolve their mutual exclusivity, subject to the provisions of §1.935 of this chapter.

(2) Following this 30-day period, the original licensee and third parties can file license applications for remaining unserved areas where licenses have not been issued or for which there are no pending applications. If the original licensee or a third party files an application, that application will be placed on public notice for 30 days. If no mutually exclusive application is filed, the application will be granted, provided that a grant is found to be in the public interest. If a mutually exclusive application is filed, it will be resolved through an auction. The Wireless Telecommunications Bureau, by public notice, may specify a limited period before the filing of short-form applications (FCC Form 175) during which applicants may enter into a settlement to

resolve their mutual exclusivity, subject to the provisions of §1.935 of this chapter.

(3) The licensee will have one year from the date the new license is issued to complete its construction and provide signal coverage and offer service over 100 percent of the geographic area of the new license area. If the licensee fails to meet this construction requirement, its license will automatically terminate without Commission action and it will not be eligible to apply to provide service to this area at any future date.

(k) Licensees holding WCS or AWS authorizations in the spectrum blocks enumerated in paragraphs (g), (h), (i), (q), (r), (s), and (t) of this section, including any licensee that obtained its license pursuant to the procedures set forth in paragraph (j) of this section, shall demonstrate compliance with performance requirements by filing a construction notification with the Commission, within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in §1.946(d) of this chapter. The licensee must certify whether it has met the applicable performance requirements. The licensee must file a description and certification of the areas for which it is providing service. The construction notifications must include electronic coverage maps, supporting technical documentation and any other information as the Wireless Telecommunications Bureau may prescribe by public notice.

(l) WCS licensees holding authorizations in the spectrum blocks enumerated in paragraphs (g), (h), or (i) of this section, excluding any licensee that obtained its license pursuant to the procedures set forth in subsection (j) of this section, shall file reports with the Commission that provide the Commission, at a minimum, with information concerning the status of their efforts to meet the performance requirements applicable to their authorizations in such spectrum blocks and the manner in which that spectrum is being utilized. The information to be reported will include the date the license term commenced, a description of the steps the licensee has taken toward meeting its construction obligations in a timely

manner, including the technology or technologies and service(s) being provided, and the areas within the license area in which those services are available. Each of these licensees shall file its first report with the Commission no later than June 13, 2011 and no sooner than 30 days prior to this date. Each licensee that meets its interim benchmarks shall file a second report with the Commission no later than June 13, 2016 and no sooner than 30 days prior to this date. Each licensee that does not meet its interim benchmark shall file this second report no later than on June 13, 2015 and no sooner than 30 days prior to this date.

(m)–(n) [Reserved]

(o) BRS and EBS licensees originally issued a BRS or EBS license prior to November 6, 2009 must make a showing of substantial service no later than May 1, 2011. With respect to initial BRS licenses issued on or after November 6, 2009, the licensee must make a showing of substantial service within four years from the date of issue of the license. Incumbent BRS licensees that are required to demonstrate substantial service by May 1, 2011 must file their substantial service showings with their renewal applications. “Substantial service” is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal. Substantial service for BRS and EBS licensees is satisfied if a licensee meets the requirements of paragraph (o)(1), (o)(2), or (o)(3) of this section. If a licensee has not met the requirements of paragraph (o)(1), (o)(2), or (o)(3) of this section, then demonstration of substantial service shall proceed on a case-by-case basis. Except as provided in paragraphs (o)(4) and (o)(5) of this section, all substantial service determinations will be made on a license-by-license basis. Failure by any licensee to demonstrate substantial service will result in forfeiture of the license and the licensee will be ineligible to regain it.

(1) A BRS or EBS licensee has provided “substantial service” by:

(i) Constructing six permanent links per one million people for licensees providing fixed point-to-point services;

(ii) Providing coverage of at least 30 percent of the population of the licensed area for licensees providing mobile services or fixed point-to-multipoint services;

(iii) Providing service to “rural areas” (a county (or equivalent) with a population density of 100 persons per square mile or less, based upon the most recently available Census data) and areas with limited access to telecommunications services:

(A) For mobile service, where coverage is provided to at least 75% of the geographic area of at least 30% of the rural areas within its service area; or

(B) for fixed service, where the BRS or EBS licensee has constructed at least one end of a permanent link in at least 30% of the rural areas within its licensed area.

(iv) Providing specialized or technologically sophisticated service that does not require a high level of coverage to benefit consumers; or

(v) Providing service to niche markets or areas outside the areas served by other licensees.

(2) An EBS licensee has provided “substantial service” when:

(i) The EBS licensee is using its spectrum (or spectrum to which the EBS licensee’s educational services are shifted) to provide educational services within the EBS licensee’s GSA;

(ii) the EBS licensee’s license is actually being used to serve the educational mission of one or more accredited public or private schools, colleges or universities providing formal educational and cultural development to enrolled students; or

(iii) the level of service provided by the EBS licensee meets or exceeds the minimum usage requirements specified in § 27.1214.

(3) An EBS or BRS licensee may be deemed to provide substantial service through a leasing arrangement if the lessee is providing substantial service under paragraph (o)(1) of this section. The EBS licensee must also be otherwise in compliance with this Chapter (including the programming requirements in § 27.1203 of this subpart).

(4) If the GSA of a licensee is less than 1924 square miles in size, and there is an overlapping co-channel station licensed or leased by the licensee

or its affiliate, substantial service may be demonstrated by meeting the requirements of paragraph (o)(1) or (o)(2) of this section with respect to the combined GSAs of both stations.

(5) If the GSA of a BTA authorization holder, is less than one-half of the area within the BTA for every BRS channel, substantial service may be demonstrated for the licenses in question by meeting the requirements of paragraph (o)(1) or (o)(2) of this section with respect to the combined GSAs of the BTA authorization holder, together with any incumbent authorizations licensed or leased by the licensee or its affiliates.

(p) This section enumerates performance requirements for licensees holding authorizations for Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band.

(1) For mobile and point-to-multipoint systems in Blocks A and B, and point-to-multipoint systems in Blocks C and D, a licensee must provide reliable signal coverage and offer service to at least 40 percent of the license area’s population by March 13, 2017, and to at least 75 percent of the license area’s population by September 13, 2019. If, when filing the construction notification required under § 1.946(d) of this chapter, a WCS licensee demonstrates that 25 percent or more of the license area’s population for Block A, B or D is within a coordination zone as defined by § 27.73(a) of the rules, the foregoing population benchmarks are reduced to 25 and 50 percent, respectively. The percentage of a license area’s population within a coordination zone equals the sum of the Census Block Centroid Populations within the area, divided by the license area’s total population.

(2) For point-to-point fixed systems, except those deployed in the Gulf of Mexico license area, a licensee must construct and operate a minimum of 15 point-to-point links per million persons (one link per 67,000 persons) in a license area by March 13, 2017, and 30 point-to-point links per million persons (one link per 33,500 persons) in a licensed area by September 13, 2019.

The exact link requirement is calculated by dividing a license area's total population by 67,000 and 33,500 for the respective milestones, and then rounding upwards to the next whole number. For a link to be counted towards these benchmarks, both of its endpoints must be located in the license area. If only one endpoint of a link is located in a license area, it can be counted as a one-half link towards the benchmarks.

(3) For point-to-point fixed systems deployed on any spectrum block in the Gulf of Mexico license area, a licensee must construct and operate a minimum of 15 point-to-point links by March 13, 2017, and a minimum of 15 point-to-point links by September 13, 2019.

(4) Under paragraph (p)(2) and (p)(3) of this section, each fixed link must provide a minimum bit rate, in bits per second, equal to or greater than the bandwidth specified by the emission designator in Hertz (*e.g.*, equipment transmitting at a 5 Mb/s rate must not require a bandwidth of greater than 5 MHz).

(5) If an initial authorization for a license area is granted after March 13, 2013, then the applicable benchmarks in paragraphs (p)(1), (2) and (3) of this section must be met within 48 and 78 months, respectively, of the initial authorization grant date.

(6) Licensees must use the most recently available U.S. Census Data at the time of measurement to meet these performance requirements.

(7) Licensees must certify compliance with the applicable performance requirements by filing a construction notification with the Commission, within 15 days of the expiration of the relevant performance milestone, pursuant to §1.946(d) of this chapter. Each construction notification must include electronic coverage maps, supporting technical documentation, and any other information as the Wireless Telecommunications Bureau may prescribe by public notice. Electronic coverage maps must accurately depict the boundaries of each license area (Regional Economic Area Grouping, REAG, or Major Economic Area, MEA) in the licensee's service territory. Further, REAG maps must depict MEA

boundaries and MEA maps must depict Economic Area boundaries. If a licensee does not provide reliable signal coverage to an entire license area, its map must accurately depict the boundaries of the area or areas within each license area not being served. Each licensee also must file supporting documentation certifying the type of service it is providing for each REAG or MEA within its service territory and the type of technology used to provide such service. Supporting documentation must include the assumptions used to create the coverage maps, including the propagation model and the signal strength necessary to provide reliable service with the licensee's technology.

(8) If a licensee fails to meet any applicable performance requirement, its authorization will terminate automatically without further Commission action as of the applicable performance milestone and the licensee will be ineligible to regain it.

(q) The following provisions apply to any licensee holding an AWS authorization in the 2000–2020 MHz and 2180–2200 MHz bands (an “AWS-4 licensee”):

(1) An AWS-4 licensee shall provide terrestrial signal coverage and offer terrestrial service within four (4) years from the date of the license to at least forty (40) percent of the total population in the aggregate service areas that it has licensed in the 2000–2020 MHz and 2180–2200 MHz bands (“AWS-4 Interim Buildout Requirement”). For purposes of this subpart, a licensee's total population shall be calculated by summing the population of each license area that a licensee holds in the 2000–2020 MHz and 2180–2200 MHz bands; and

(2) An AWS-4 licensee shall provide terrestrial signal coverage and offer terrestrial service within seven (7) years from the date of the license to at least seventy (70) percent of the population in each of its license areas in the 2000–2020 MHz and 2180–2200 MHz bands (“AWS-4 Final Buildout Requirement”).

(3) If any AWS-4 licensee fails to establish that it meets the AWS-4 Interim Buildout Requirement, the AWS-4 Final Buildout requirement shall be

accelerated by one year from (seven to six years).

(4) If any AWS-4 licensee fails to establish that it meets the AWS-4 Final Buildout Requirement in any of its license areas in the 2000-2020 MHz and 2180-2200 MHz bands, its authorization for each license area in which it fails to meet the requirement shall terminate automatically without Commission action. To the extent that the AWS-4 licensee also holds the 2 GHz MSS rights for the affected license area, failure to meet the AWS-4 Final Buildout Requirement in an EA shall also result in the MSS protection rule in § 27.1136 no longer applying in that license area.

(5) To demonstrate compliance with these performance requirements, licensees shall use the most recently available U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will only be deemed served by the licensee if it provides signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may only include the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license.

(6) Failure by any AWS-4 licensee to meet the AWS-4 Final Buildout Requirement in paragraph (q)(4) of this section will result in forfeiture of the license and the licensee will be ineligible to regain it.

(7) *Renewal showing.* An applicant for renewal of a geographic-area authorization in the 2000-2020 MHz and 2180-2200 MHz service bands must make a renewal showing, independent of its performance requirements, as a condition of renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

(i) The level and quality of service provided by the applicant (including the population served, the area served,

the number of subscribers, the services offered);

(ii) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(iii) The extent to which service is provided to rural areas;

(iv) The extent to which service is provided to qualifying tribal land as defined in § 1.2110(f)(3)(i) of this chapter; and

(v) Any other factors associated with the level of service to the public.

(r) The following provisions apply to any licensee holding an AWS authorization in the 1915-1920 MHz and 1995-2000 MHz bands:

(1) A licensee shall provide signal coverage and offer service within four (4) years from the date of the initial license to at least forty (40) percent of the population in each of its licensed areas ("Interim Buildout Requirement").

(2) A licensee shall provide signal coverage and offer service within ten (10) years from the date of the initial license to at least seventy-five (75) percent of the population in each of its licensed areas ("Final Buildout Requirement").

(3) If a licensee fails to establish that it meets the Interim Buildout Requirement for a particular licensed area, then the Final Buildout Requirement (in this paragraph (r)) and the license term (as set forth in § 27.13(j)) for each license area in which it fails to meet the Interim Buildout Requirement shall be accelerated by two years (from ten to eight years).

(4) If a licensee fails to establish that it meets the Final Buildout Requirement for a particular licensed area, its authorization for each license area in which it fails to meet the Final Buildout Requirement shall terminate automatically without Commission action and the licensee will be ineligible to regain it if the Commission makes the license available at a later date.

(5) To demonstrate compliance with these performance requirements, licensees shall use the most recently available U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract

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level. The population within a specific Census Tract (or other acceptable identifier) will only be deemed served by the licensee if it provides signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may only include the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license.

(6) An applicant for renewal of a license covered by this paragraph (r) must make a renewal showing, independent of its performance requirements, as a condition of renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

(i) The level and quality of service provided by the applicant (including the population served, the area served, the number of subscribers, the services offered);

(ii) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(iii) The extent to which service is provided to rural areas;

(iv) The extent to which service is provided to qualifying tribal land as defined in § 1.2110(f)(3)(i) of this chapter; and

(v) Any other factors associated with the level of service to the public.

(s) The following provisions apply to any licensee holding an AWS authorization in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz bands:

(1) A licensee shall provide reliable signal coverage and offer service within six (6) years from the date of the initial license to at least forty (40) percent of the population in each of its licensed areas (“Interim Buildout Requirement”).

(2) A licensee shall provide reliable signal coverage and offer service within twelve (12) years from the date of the initial license to at least seventy-five (75) percent of the population in

each of its licensed areas (“Final Buildout Requirement”).

(3) If a licensee fails to establish that it meets the Interim Buildout Requirement for a particular licensed area, then the Final Buildout Requirement (in this paragraph (s)) and the AWS license term (as set forth in § 27.13(k)) for each license area in which it fails to meet the Interim Buildout Requirement shall be accelerated by two (2) years (from twelve (12) to ten (10) years).

(4) If a licensee fails to establish that it meets the Final Buildout Requirement for a particular licensed area, its authorization for each license area in which it fails to meet the Final Buildout Requirement shall terminate automatically without Commission action and the licensee will be ineligible to regain it if the Commission makes the license available at a later date.

(5) To demonstrate compliance with these performance requirements, licensees shall use the most recently available U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will be deemed served by the licensee only if it provides signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may include only the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license. For the Gulf of Mexico license area, the licensee shall demonstrate compliance with these performance requirements, using off-shore platforms, including production, manifold, compression, pumping and valving platforms as a proxy for population in the Gulf of Mexico.

(6) An applicant for renewal of a license covered by paragraph (s) of this section must make a renewal showing, independent of its performance requirements, as a condition of each renewal. The showing must include a detailed

description of the applicant's provision of service during the entire license period and address:

(i) The level and quality of service provided by the applicant (including the population served, the area served, the number of subscribers, the services offered);

(ii) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(iii) The extent to which service is provided to rural areas;

(iv) The extent to which service is provided to qualifying tribal land as defined in §1.2110(f)(3)(i) of this chapter; and

(v) Any other factors associated with the level of service to the public.

(t) The following provisions apply to any licensee holding an authorization in the 600 MHz band:

(1) A licensee shall provide reliable signal coverage and offer service within six (6) years from the date of the initial license to at least forty (40) percent of the population in each of its license areas ("Interim Buildout Requirement").

(2) A licensee shall provide reliable signal coverage and offer service within twelve (12) years from the date of the initial license to at least seventy-five (75) percent of the population in each of its license areas ("Final Buildout Requirement").

(3) If a licensee fails to establish that it meets the Interim Buildout Requirement for a particular licensed area, then the Final Buildout Requirement (in this paragraph (t)) and the license term (as set forth in §27.13(1)) for each license area in which it fails to meet the Interim Buildout Requirement shall be accelerated by two (2) years (from twelve (12) to ten (10) years).

(4) If a licensee fails to establish that it meets the Final Buildout Requirement for a particular license area, its authorization for each license area in which it fails to meet the Final Buildout Requirement shall terminate automatically without Commission action, and the licensee will be ineligible to regain it if the Commission makes the license available at a later date.

(5) To demonstrate compliance with these performance requirements, li-

cencees shall use the most recently available decennial U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will be deemed served by the licensee only if it provides reliable signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may include only the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license. For the Gulf of Mexico license area, the licensee shall demonstrate compliance with these performance requirements, using offshore platforms, including production, manifold, compression, pumping and valving platforms as a proxy for population in the Gulf of Mexico.

(6) An applicant for renewal of a license covered by this paragraph (t) must make a renewal showing, independent of its performance requirements, as a condition of each renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

(i) The level and quality of service provided by the applicant (including the population served, the area served, the number of subscribers, the services offered);

(ii) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(iii) The extent to which service is provided to rural areas;

(iv) The extent to which service is provided to qualifying tribal land as defined in §1.2110(f)(3)(i) of this chapter; and

(v) Any other factors associated with the level of service to the public.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §27.14, see the List of CFR Sections Affected, which appears in the

§ 27.15

Finding Aids section of the printed volume and at www.fdsys.gov.

§ 27.15 Geographic partitioning and spectrum disaggregation.

(a) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request from the Commission an authorization for partial assignment of a license pursuant to § 1.948.

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

(b) *Technical Standards*—(1) *Partitioning.* In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to section 1.948 and list the partitioned service area on a schedule to the application. 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).

(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.

(4) *Signal levels.* For purposes of partitioning and disaggregation, part 27 systems must be designed so as not to exceed the signal level specified for the particular spectrum block in § 27.55 at the licensee's service area boundary, unless the affected adjacent service area licensees have agreed to a different signal level.

(c) *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 § 27.13.

(d) *Compliance with construction requirements*—(1) *Partitioning.* (i) Except for WCS licensees holding authorizations for the 600 MHz band, Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, or Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands; and for licensees holding AWS authoriza-

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tions in the 1915–1920 MHz and 1995–2000 MHz bands, the 2000–2020 MHz and 2180–2200 MHz bands; or the 1695–1710 MHz, 1755–1780 MHz and 2155–2180 MHz bands the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

(ii) For WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, or Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that they will collectively share responsibility for meeting the construction requirement for the entire pre-partition geographic license area. If the partitioner and partitionee collectively fail to meet the construction requirement, then both the partitioner and partitionee will be subject to the consequences enumerated in § 27.14(g) and (h) for this failure. Under the second option, the partitioner and partitionee