

## § 22.107

*Service to subscribers.* Service to at least one subscriber that is not affiliated with, controlled by or related to the providing carrier.

*Signal booster.* A stationary device that automatically reradiates signals from base transmitters without channel translation, for the purpose of improving the reliability of existing service by increasing the signal strength in dead spots.

*Station.* A station equipped to engage in radio communication or radio transmission of energy (47 U.S.C. 153(k)).

*Telecommunications common carrier.* An individual, partnership, association, joint-stock company, trust or corporation engaged in rendering radio telecommunications services to the general public for hire.

*Temporary fixed station.* One or more fixed transmitters that normally do not remain at any particular location for longer than 6 months.

*Universal licensing system.* The Universal Licensing System (ULS) is the consolidated database, application filing system, and processing system for all Wireless Radio Services. ULS supports electronic filing of all applications and related documents by applicants and licensees in the Wireless Radio Services, and provides public access to licensing information.

*Unserved Area.* With regard to a channel block allocated for assignment in the Cellular Radiotelephone Service: Geographic area in the District of Columbia, or any State, Territory or Possession of the United States of America that is not within any Cellular Geographic Service Area of any Cellular system authorized to transmit on that channel block. With regard to a channel allocated for assignment in the Paging and Radiotelephone service: Geographic area within the District of Columbia, or any State, Territory or possession of the United States of America that is not within the service contour of any base transmitter in any station

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authorized to transmit on that channel.

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### Subpart B—Licensing Requirements and Procedures

#### APPLICATIONS AND NOTIFICATIONS

#### § 22.107 General application requirements.

In general, applications for authorizations, assignments of authorizations, or consent to transfer of control of licensees in the Public Mobile Services must:

(a) Demonstrate the applicant's qualifications to hold an authorization in the Public Mobile services;

(b) State how a grant would serve the public interest, convenience, and necessity;

(c) Contain all information required by FCC rules or application forms;

(d) Propose operation of a facility in compliance with all rules governing the Public Mobile service;

(e) Be amended as necessary to remain substantially accurate and complete in all significant respects, in accordance with the provisions of § 1.65 of this chapter; and,

(f) Be signed in accordance with § 1.743 of this chapter.

#### § 22.131 Procedures for mutually exclusive applications.

Two or more pending applications are mutually exclusive if the grant of one application would effectively preclude the grant of one or more of the others under Commission rules governing the Public Mobile Services involved. The Commission uses the general procedures in this section for processing mutually exclusive applications in the Public Mobile Services. Additional specific procedures are prescribed in the subparts of this part governing the individual Public Mobile Services (see §§ 22.509, 22.717, and 22.949) and in part 1 of this chapter.

(a) *Separate applications.* Any applicant that files an application knowing that it will be mutually exclusive with one or more applications should not include in the mutually exclusive application a request for other channels or facilities that would not, by themselves, render the application mutually exclusive with those other applications. Instead, the request for such other channels or facilities should be filed in a separate application.

(b) *Filing groups.* Pending mutually exclusive applications are processed in filing groups. Mutually exclusive applications in a filing group are given concurrent consideration. The Commission may dismiss as defective (pursuant to §1.945 of this chapter) any mutually exclusive application(s) whose filing date is outside of the date range for inclusion in the filing group. The types of filing groups used in day-to-day application processing are specified in paragraph (c)(3) of this section. A filing group is one of the following types:

(1) *Same-day filing group.* A same-day filing group comprises all mutually exclusive applications whose filing date is the same day, which is normally the filing date of the first-filed application(s).

(2) *Thirty-day notice and cut-off filing group.* A 30-day notice and cut-off filing group comprises mutually exclusive applications whose filing date is no later than thirty (30) days after the date of the Public Notice listing the first-filed application(s) (according to the filing dates) as acceptable for filing.

(3) *Window filing group.* A window filing group comprises mutually exclusive applications whose filing date is within an announced filing window. An announced filing window is a period of time between and including two specific dates, which are the first and last dates on which applications (or amendments) for a particular purpose may be accepted for filing. In the case of a one-day window, the two dates are the same. The dates are made known to the public in advance.

(c) *Procedures.* Generally, the Commission may grant one application in a filing group of mutually exclusive applications and dismiss the other application(s) in the filing that are excluded

by that grant, pursuant to §1.945 of this chapter.

(1) *Selection methods.* In selecting the application to grant, the Commission will use competitive bidding.

(2) *Dismissal of applications.* The Commission may dismiss any application in a filing group that is defective or otherwise subject to dismissal under §1.945 of this chapter, either before or after employing selection procedures.

(3) *Type of filing group used.* Except as otherwise provided in this part, the type of filing group used in the processing of two or more mutually exclusive applications depends upon the purpose(s) of the applications.

(i) If any mutually exclusive application filed on the earliest filing date is an application for modification and none of the mutually exclusive applications is a timely-filed application for renewal, a same-day filing group is used.

(ii) If all of the mutually exclusive applications filed on the earliest filing date are applications for initial authorization, a 30-day notice and cut-off filing group is used.

(4) *Disposition.* If there is only one application in any type of filing group, the Commission may grant that application and dismiss without prejudice any mutually exclusive applications not in the filing group. If there is more than one mutually exclusive application in a filing group, the Commission disposes of these applications as follows:

(i) *Applications in a 30-day notice and cut-off filing group.* (A) If all of the mutually exclusive applications in a 30-day notice and cut-off filing group are applications for initial authorization, the FCC administers competitive bidding procedures in accordance with §§22.201 through 22.227 and subpart Q of part 1 of this chapter, as applicable. After such procedures, the application of the successful bidder may be granted and the other applications may be dismissed without prejudice.

(B) If any of the mutually exclusive applications in a 30-day notice and cut-off filing group is an application for modification, the Commission may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is

not reached within a reasonable time, the FCC may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(ii) *Applications in a same-day filing group.* If there are two or more mutually exclusive applications in a same-day filing group, the Commission may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the Commission may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes of all of the applications in the filing group.

(iii) *Applications in a window filing group.* Applications in a window filing group are processed in accordance with the procedures for a 30-day notice and cut-off filing group in paragraph (c)(4)(ii) of this section.

(d) *Terminology.* For the purposes of this section, terms have the following meanings:

(1) The *filing date* of an application is the date on which that application was received in a condition acceptable for filing or the date on which the most recently filed major amendment to that application was received, whichever is later, excluding major amendments in the following circumstances:

(i) The major amendment reflects only a change in ownership or control found by the Commission to be in the public interest;

(ii) The major amendment as received is defective or otherwise found unacceptable for filing; or

(iii) The application being amended has been designated for hearing and the Commission or the presiding officer accepts the major amendment.

(2) An *application for initial authorization* is:

(i) Any application requesting an authorization for a new system or station;

(ii) Any application requesting authorization for an existing station to operate on an additional channel, unless the additional channel is for paired two-way radiotelephone operation, is

in the same frequency range as the existing channel(s), and will be operationally integrated with the existing channel(s) such as by trunking;

(iii) Any application requesting authorization for a new transmitter at a location more than 2 kilometers (1.2 miles) from any existing transmitters of the applicant licensee on the requested channel or channel block; or

(iv) Any application to expand the Cellular Geographic Service Area of an existing Cellular system. *See* § 22.911.

(v) Any “short-form” application (filed on FCC Form 175) requesting a new paging geographic area authorization.

[59 FR 59954, Nov. 21, 1994, as amended at 62 FR 11629, Mar. 12, 1997; 63 FR 68943, Dec. 14, 1998; 79 FR 72150, Dec. 5, 2014; 82 FR 41547, Sept. 1, 2017]

#### § 22.143 Construction prior to grant of application.

Applicants may construct facilities in the Public Mobile services prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities in the Public Mobile Services.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility 35 days after the date of the Public Notice listing the application for that facility as acceptable for filing.

(b) *Notification to stop.* If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

- (1) Applications that are not granted;
- (2) Errors or delays in issuing Public Notices;