

§ 27.1505

(d) Having met the 90% success threshold, a 900 MHz broadband licensee seeking to trigger the mandatory relocation process shall serve notice on applicable covered incumbent(s).

(e) Following the service of notice, a 900 MHz broadband licensee may request information from the covered incumbent reasonably required to craft its offer of comparable facilities.

(f) We expect all parties to negotiate with the utmost “good faith” in the negotiation process. Factors relevant to a “good-faith” determination include:

(1) Whether the party responsible for paying the cost of band reconfiguration has made a *bona fide* offer to relocate the incumbent to comparable facilities;

(2) The steps the parties have taken to determine the actual cost of relocation to comparable facilities; and

(3) Whether either party has unreasonably withheld information, essential to the accurate estimation of relocation costs and procedures, requested by the other party.

(g) A party seeking Commission resolution of a dispute must submit in writing to the Chief, Wireless Telecommunications Bureau:

(1) The name, address, telephone number, and email address of the 900 MHz broadband licensee or covered incumbent making the allegation;

(2) The name of the 900 MHz broadband licensee or covered incumbent about which the allegation is made;

(3) A complete statement of the facts supporting the broadband licensee’s or incumbent’s claim; and

(4) The specific relief sought.

(h) If an incumbent fails to negotiate in good faith, its facilities may be mandatorily relocated, and its license modified accordingly by the Commission pursuant to section 316 of the Act. If the Wireless Telecommunications Bureau finds bad faith on the part of the broadband licensee, the broadband licensee may lose the right to relocate the incumbent or the Wireless Telecommunications Bureau may refer the matter to the Enforcement Bureau for action (which could include a range of sanctions, such as imposition of forfeitures).

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§ 27.1505 Performance requirements.

(a) 900 MHz broadband licensees 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.

(1) 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 and supporting technical documentation regarding the type of service it is providing for each licensed area within its service territory and the type of technology used to provide such service, and certify the accuracy of such documentation. 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.

(2) To demonstrate compliance with the population coverage requirement, licensees shall use the most recently available decennial U.S. Census Bureau 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.

(b) A 900 MHz broadband licensee must meet either a population coverage requirement or geographic coverage as follows:

(1) *Population metric.* (i) A 900 MHz broadband licensee shall provide reliable signal coverage and offer broadband service to at least 45% of

the population in its license area within six years of license grant.

(ii) A 900 MHz broadband licensee shall provide reliable signal coverage and offer broadband service to at least 80% of the population in its license area within 12 years of license grant.

(2) *Geographic coverage.* Alternatively, a 900 MHz broadband licensee may:

(i) Demonstrate it provides reliable signal coverage and offers broadband service covering at least 25% of the geographic license area within six years of license grant.

(ii) Demonstrate it provides reliable signal coverage and offers broadband service covering at least 50% of the geographic license area within twelve years of license grant.

(c) *Penalties.* (1) If a 900 MHz broadband licensee fails to meet the first performance benchmark, we require the licensee to meet the final performance benchmark two years sooner (*i.e.*, at 10 years into the license term) and reduce the license term from 15 years to 13 years.

(2) If a 900 MHz broadband licensee fails to meet the final performance benchmark, its authorization for that license area will terminate automatically without Commission action.

(d) *License renewal.* After satisfying the 12-year, final performance benchmark, a licensee must continue to provide coverage and offer broadband service at or above that level for the remaining three years of the 15-year license term in order to warrant license renewal.

§ 27.1506 Frequencies.

The 897.5–900.5 MHz and 936.5–939.5 MHz band segments are available for licensing with an authorized bandwidth up to 3 megahertz paired channels. The 897.5–900.5 MHz segment must only be used for uplink transmissions. The 936.5–939.5 MHz segments must only be used for downlink transmissions.

§ 27.1507 Effective radiated power limits for 900 MHz broadband systems.

(a) *Maximum ERP.* The power limits specified in this section are applicable to operations in areas more than 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canada border.

(1) *General limit.* (i) The ERP for base and repeater stations must not exceed 400 watts/megahertz power spectral density (PSD) per sector and an antenna height of 304 m height above average terrain (HAAT), except that antenna heights greater than 304 m HAAT are permitted if power levels are reduced below 400 watts/megahertz ERP in accordance with Table 1 of this section.

(ii) Provided that they also comply with paragraphs (b) and (c) of this section, licensees are permitted to operate base and repeater stations with up to a maximum ERP of 1000 watts/megahertz power spectral density (PSD) per sector and an antenna height of 304 m height above average terrain (HAAT), except that antenna heights greater than 304 m HAAT are permitted if power levels are reduced below 1000 watts/megahertz ERP in accordance with Table 2 of this section.

(2) *Rural areas.* For systems that are located in counties with population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census:

(i) The ERP for base and repeater stations must not exceed 800 watts/megahertz power spectral density (PSD) per sector and an antenna height of 304 m height above average terrain (HAAT), except that antenna heights greater than 304 m HAAT are permitted if power levels are reduced below 800 watts/megahertz ERP in accordance with Table 3 of this section.

(ii) Provided that they also comply with paragraphs (b) and (c) of this section, base and repeater stations may operate with up to a maximum ERP of 2000 watts/megahertz power spectral density (PSD) per sector and an antenna height of 304 m height above average terrain (HAAT), except that antenna heights greater than 304 m HAAT are permitted if power levels are reduced below 2000 watts/megahertz ERP in accordance with Table 4 of this section.

(3) *Mobile, control and auxiliary test stations.* Mobile, control and auxiliary test stations must not exceed 10 watts ERP.

(4) *Portable stations.* Portable stations must not exceed 3 watts ERP.