

Proposed Rules

Parts 20 and 24 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 3053 and 332, unless otherwise noted.

2. Section 20.6 is amended by revising paragraph (d)(2) to read as follows:

§ 20.6 CMRS spectrum aggregation limit.

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(d) * * *

(2) Partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee will be attributable, except that ownership will not be attributed unless the partnership and other ownership interests and any stock interest amount to 40 percent or more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee if the ownership interest is held by a small business or a rural telephone company, as these terms are defined in § 1.2110 of this chapter or other provisions of the Commission's rules.

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PART 24—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation for Part 24 continues to read as follows:

Authority: Secs. 4, 301, 302, 303, 309 and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 301, 302, 303, 309 and 332, unless otherwise noted.

2. Section 24.204 is amended by revising paragraph (d)(2)(ii) to read as follows:

§ 24.204 Cellular eligibility.

* * * * *

(d) * * *

(2) * * *

(ii) Partnership and other ownership interests and any stock interest amounting to 20 percent or more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee will be attributable, except that ownership will not be attributed unless the partnership and other ownership interests and any stock interest amount to 40 percent or more of the equity, or outstanding stock, or outstanding voting stock of a cellular licensee if the ownership interest is held by a small business or a rural telephone company,

as these terms are defined in § 1.2110 of this chapter, or if the ownership interest is held by an entity with a non-controlling equity interest in a broadband PCS licensee or applicant that is a small business as defined in § 24.720.

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3. Section 24.709 is amended by revising the heading and paragraphs (a), (b)(6), (c)(1) introductory text, (c)(1)(ii)(B), (c)(2) introductory text, (c)(2)(ii) and (e) to read as follows:

§ 24.709 Eligibility for licenses for frequency Block C.

(a) *General Rule.* (1) No application is acceptable for filing and no license shall be granted for frequency block C, unless the applicant, together with its *affiliates* and persons or entities that hold interests in the applicant and their *affiliates*, have *gross revenues* of less than \$125 million in each of the last two years and *total assets* of less than \$500 million at the time the applicant's short-form application (Form 175) is filed.

(2) The *gross revenues* and *total assets* of the applicant (or licensee), and its *affiliates*, and (except as provided in paragraph (b) of this section) of persons or entities that hold interests in the applicant (or licensee), and their *affiliates*, shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for a license for frequency block C under this section.

(3) Any licensee awarded a license pursuant to this section (or pursuant to § 24.839(d)(2)) shall maintain its eligibility until at least five years from the date of initial license grant, except that a licensee's (or other attributable entity's) increased *gross revenues* or increased *total assets* due to *nonattributable equity* investments (i.e., from sources whose *gross revenues* and *total assets* are not considered under paragraph (b) of this section), debt financing, revenue from operations or other investments, business development or expanded service shall not be considered.

(b) * * *

(6) *Control Group Minimum 50.1 Percent Equity Requirement.* In order to be eligible to exclude *gross revenues* and *total assets* of persons or entities identified in paragraph (b)(4) of this section, an applicant (or licensee) must comply with the following requirements:

(i) Except for an applicant (or licensee) whose sole control group member is a *preexisting entity*, as provided in paragraph (b)(6)(ii) of this

section, at the time the applicant's short-form application (Form 175) is filed and until at least three years following the date of initial license grant, the applicant's (or licensee's) *control group* must own at least 50.1 percent of the applicant's (or licensee's) total equity as follows:

(A) At least 30 percent of the applicant's (or licensee's) total equity must be held by *qualifying investors*, either unconditionally or in the form of options, exercisable at the option of the holder, at any time and at any exercise price equal to or less than the market value at the time the applicant files its short-form application (Form 175);

(B) Such *qualifying investors* must hold 50.1 percent of the voting stock and all general partnership interests within the control group and must have *de facto* control of the control group and of the applicant;

(C) The remaining 20.1 percent of the applicant's (or licensee's) total equity may be owned by *qualifying investors*, either unconditionally or in the form of stock options not subject to the restrictions of paragraph (b)(6)(i)(A) of this section, or by any of the following entities which may not comply with § 24.720(n)(1):

(1) *Institutional investors*, either unconditionally or in the form of stock options;

(2) *Noncontrolling existing investors* in any *preexisting entity* that is a member of the *control group*, either unconditionally or in the form of stock options; or

(3) Individuals that are members of the applicant's (or licensee's) management, either unconditionally or in the form of stock options.

(D) Following termination of the three-year period specified in paragraph (b)(6)(i) of this section, *qualifying investors* must continue to own at least 20 percent of the applicant's (or licensee's) total equity, either unconditionally or in the form of stock options subject to the restrictions in paragraph (b)(6)(i)(A) of this section. The restrictions specified in paragraph (b)(6)(i)(C)(1) through (3) of this section no longer apply to the remaining equity after termination of such three-year period.

(ii) At the election of an applicant (or licensee) whose *control group's* sole member is a *preexisting entity*, the 50.1 percent minimum equity requirements set forth in paragraph (b)(6)(i) of this section shall apply, except that only 20 percent of the applicant's (or licensee's) total equity must be held by *qualifying investors*, and that the remaining 30.1 percent of the applicant's (or licensee's) total equity may be held by *qualifying*