Commission also reduces down payments for small businesses to 5 percent of the winning bid due five days after the auction closes and the remaining 5 percent down payment due five days after Public Notice that the license is ready for grant.

42. The Second NPRM next proposed a 25 percent bidding credit on one of the five proposed spectrum blocks for small businesses owned by women and minorities. These bidding credits would be available exclusively to minority and women-owned businesses. The Commission also proposed installment payments for these entities and sought comment on whether installment payments should also be available for small businesses. The Commission did not believe that special preferences were needed to ensure adequate participation of rural telephone companies in the provision of services in this spectrum, in view of the uncertainty concerning what specific uses may emerge in this band, the potential prices that licenses may bring, the effects of provisions for partitioning or leasing spectrum, and the advantages of incumbency and economies of scale that may already benefit rural telephone companies. The Second NPRM sought comment on this analysis.

43. The Commission adopts a 10 percent bidding credit for small businesses. As discussed above, the Commission is adopting installment payments for small business bidders and the small EA geographic licensing areas. In the Commission's judgment, these and other provisions of the licensing and auction rules should ensure that small businesses, including small businesses owned by women and minorities, will be able to participate effectively in obtaining GWCS licenses, whether or not those licenses are

auctioned.

44. The Commission next considers transfer restrictions and unjust enrichment provisions. Restrictions on the transfer or assignment of licenses acquired by designated entities are intended to promote the Congressional intent that designated entities be permitted to participate in the provision of spectrum-based services, not simply to profit from trafficking in licenses acquired with the help of bidding preferences. The Commission adopts the proposal contained in the Second NPRM. Specifically, the Commission adopts a payment requirement on transfers of such licenses to entities that are not small businesses. Small businesses seeking to transfer a license to an entity that is not owned by women or minorities would be required to reimburse the government for the

amount of the bidding credit, plus interest at the rate imposed for installment financing at the time the license was awarded, before the transfer would be permitted. The amount of the penalty would be reduced over time so that a transfer in the first two years of the license would result in a payment of 100 percent of the value of the bidding credit; in year three of the license term the payment would be 75 percent; in year four the penalty would be 50 percent and in year five the payment would be 25 percent, after which there would be no payment.

45. On the issue of rural telephone company partitions, the Commission, in the Second NPRM, proposed to permit partitioning of MTA-based licenses, to permit licensees to lease the rights to operate a GWCS system within portions of their geographic service area or transfer their license to partition their service areas geographically, allowing another party to be licensed in the partitioned area, subject to Commission approval. The Commission elects to adopt partitioning procedures similar to those used for cellular licenses and adopted for broadband PCS licenses.

46. The Second NPRM next sought comment on whether to designate one 5 MHz spectrum block as an "entrepreneurs" block. The Commission also invited comment on how eligibility for such a block should be defined. The Commission declines to adopt an entrepreneur's block for this band, based on our belief that bidding credits, installment payment options, and the other approaches also adopted will generate sufficient incentives to encourage participation in GWCS licensing. Unlike a set-aside, they also should not generate the risk of inefficient use of the $4660-4685\ MHz$ spectrum and of dampening incentives for innovation.

Technical Rules

47. The Second NPRM proposed general and minimal technical restrictions that are based on the PCS rules. Specifically, the Commission proposed to limit the field strength at licensees' service area boundaries to 55 dBu unless licensees operating in adjacent areas agree to higher field strengths along their mutual border.9 The Commission stated that licensees would be expected to coordinate their operations at the service area boundaries. The Second NPRM further stated that the Commission would

encourage licensees to resolve adjacent channel interference problems. The Commission did, however, propose to require licensees to attenuate the power below the transmitter power (P) by at least 43 plus 10log₁₀(P) or 80 decibels, whichever is less, for any emission at the edges of the 4660-4685 MHz band. Comments were requested on these proposals and any other technical rules that commenters believed appropriate.

48. Based on the record, the Commission adopts the technical rules as proposed in the Second NPRM. The PCS-based technical rules appear to be the best available rules to govern the flexible GWCS designation. However, the Commission recognizes that the technical rules may need to be adjusted to suit the needs of the eventual licensees. The rules also anticipate that licensees will in the first instance seek to resolve interference problems among themselves.

License Term

49. The Second NPRM noted that the Communications Act allows the Commission to establish a license term of up to 10 years, except for television or radio broadcasting stations, which may have a license term of up to 5 and 7 years, respectively. For services in the 4660-4685 MHz band, the Second NPRM proposed to establish a license term of 10 years, with a renewal expectancy similar to that of PCS and cellular telephone licensees. The Second NPRM indicated that this relatively long license term, combined with a high renewal expectancy, should help provide a stable regulatory environment that will be attractive to investors and, thereby, encourage development of this new frequency band. The Commission noted, however, that commenters had proposed using this band for auxiliary broadcast service and the statute requires that the term of any license for the operation of any auxiliary broadcast station or equipment must be concurrent with the term of the license for such primary television station. Therefore, the Second NPRM asked that commenters address whether the Commission should allow differing license terms in this band. The Commission finds that the statutory provision that requires a shorter license term will generally not apply, expect in the case of an applicant seeking to use GWCS for auxiliary broadcast use by a single station, within the meaning of Section 307(c).

Construction Requirements

50. The Commission, in the Second NPRM, acknowledged that the very wide array of potential services that

⁹ The minimum field strength required for a good quality service for mobile reception in an urban environment is 35 dBu (CCIR Report 358-5) and the proposed 55 dBu field strength limit allows 20 dB additional for location variability.