

APPENDIX B

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 90 to read as follows:

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

2. Revise § 1.9001 to read as follows:

§ 1.9001 Purpose and scope.

(a) The purpose of this subpart is to implement policies and rules pertaining to spectrum leasing arrangements between licensees in the services identified in this subpart and spectrum lessees. This subpart also implements policies for private commons arrangements. The policies and rules in this subpart also implicate other Commission rule parts, including parts 1, 2, 20, 22, 24, 25, 27, 30, 80, 90, 95, and 101 of title 47, chapter I of the Code of Federal Regulations.

(b) Except as provided in paragraph (c) of this section, licensees holding exclusive use rights are permitted to engage in spectrum leasing whether their operations are characterized as commercial, common carrier, private, or non-common carrier.

(c) A State Lessor licensee (as defined in § 90.1217 of this chapter) in the shared 4940-4990 MHz band (see part 90, subpart Y, of this chapter) is permitted to lease some or all of the spectrum rights under its license, except that a state identified as diverting 911 fees in the Commission's December 2019 911 Fee Report sent to Congress pursuant to 47 U.S.C. 615a-1(f)(2) shall not be permitted to lease 4.9 GHz spectrum.

3. Amend § 1.9005 by adding paragraph (oo) to read as follows:

§ 1.9005 Included services.

* * * * *

(oo) The 4940-4990 MHz band (part 90 of this chapter).

4. Revise § 1.9048 to read as follows:

§ 1.9048 Special provisions relating to spectrum leasing arrangements involving licensees in the Public Safety Radio Services.

(a) Licensees in the Public Safety Radio Services (see part 90, subpart B, and § 90.311(a)(1)(i) of this chapter) may enter into spectrum leasing arrangements with other public safety entities eligible for such a license authorization as well as with entities providing communications in support of public safety operations (see § 90.523(b) of this chapter).

(b) In addition to spectrum leasing arrangements permitted under paragraph (a) of this section, a State Lessor (as defined in § 90.1217 of this chapter) in the 4940-4990 MHz band (see part 90, subpart Y, of this chapter) may enter into spectrum leasing arrangements with any entity eligible under this part to be a spectrum lessee, except that a state identified as diverting 911 fees in the Commission's December 2019 911 Fee Report sent to Congress pursuant to 47 U.S.C. 615a-1(f)(2) shall not be permitted to lease 4.9 GHz spectrum.

PART 90 – PRIVATE LAND MOBILE RADIO SERVICES

5. The authority citation for part 90 continues to read as follows:

Authority: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401-1473.

6. Revise § 90.1203 to read as follows:

§ 90.1203 Eligibility.

(a) Entities providing public safety services (as defined in § 90.523) are eligible to hold a Commission license for systems operating in the 4940-4990 MHz band. All of the requirements and conditions set forth in § 90.523 also govern authorizations in the 4940-4990 MHz band.

(b) 4.9 GHz band licensees may enter into sharing agreements or other arrangements for use of the spectrum with entities that do not meet the eligibility requirements in this section. However, all applications in the band are limited to operations in support of public safety, except as provided in paragraph (c) of this section.

(c) Operations conducted pursuant to a license held by a State Lessor (as defined in § 90.1217), whether conducted by the State Lessor or its lessee(s), are not limited to operations in support of public safety. For purposes of subpart X of part 1 of this chapter, such lessees shall be deemed eligible and qualified as a licensee, notwithstanding paragraph (a) of this section.

7. Add § 90.1217 to read as follows:

§ 90.1217 State Lessor.

(a) The State Lessor shall have the authority to lease some or all of its 4.9 GHz band spectrum usage rights, including geographic areas licenses or permanent fixed sites individually licensed under § 90.1207, pursuant to subpart X of part 1 of this chapter, to any entity eligible to be a spectrum licensee under subpart X of part 1.

(b) In each state (as defined in § 90.7) one state entity holding a statewide license may be selected as a State Lessor.

(1) In states where there is only one state entity holding a statewide license, that licensee will be deemed the State Lessor.

(2) In states where there are multiple state entities holding a statewide license, one must be selected as the State Lessor if seeking to lease 4.9 GHz band spectrum use rights. This selection must be demonstrated through the inclusion of a letter, signed by all state entities holding a statewide license in that state, affirming the selection of a State Lessor for that state, in any application to the Commission that requires demonstration of State Lessor Status, including FCC Form 608. If states with multiple state entities holding a statewide license are unable to reach an agreement affirming a State Lessor selection, the Commission will accept in the alternative a letter, signed by the elected chief executive (Governor) of that state, or his or her designee, affirming the selection of a State Lessor for that state.

(c) The State Lessor may assign its license to another state entity eligible for a statewide license.

(1) Any assignment application must be accompanied by a letter, signed by the elected chief executive (Governor) of that state, or his or her designee, affirming the selection of the assignee as the State Lessor for that state.

(2) Any assignment of the State Lessor's license must include all permanent fixed site authorizations obtained while a State Lessor. A licensee selected as the State Lessor may only assign its entire license and may not partition or disaggregate its license.