AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Safety Broadband Licensee may at any time bring a complaint to the Commission based on a claim that another party to the NSA has deviated from the terms of the NSA, or a petition for a declaratory ruling to resolve the proper interpretation of an NSA term or provision. The Commission also may at any time, on its own motion, determine to address any material breach or interpret any NSA term or provision.

(b) The Commission shall have primary responsibility and jurisdiction for adjudicating disputes that arise following execution of the NSA. The Commission may, however, require the parties to first seek a settlement to the dispute or authorize the parties to resolve the dispute through litigation or other means. Breach of license terms, the NSA, or the Commission's rules may result in cancellation of the Upper 700 MHz D Block license, the Public Safety Broadband License, or both.

(c) The Chiefs of the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau are delegated joint responsibility for adjudicating disputes.

§ 27.1327 Construction requirements; criteria for renewal.

(a) The Upper 700 MHz D Block licensee shall comply with the applicable construction requirements of § 27.14.

(b) The Upper 700 MHz D Block licensee shall comply with the applicable procedures and criteria for license renewal of § 27.14.

§ 27.1330 Local public safety build-out and operation.

(a) The Upper 700 MHz D Block licensee and the Operating Company through its lease arrangements shall, except in the two limited circumstances set forth herein, have the exclusive right to build and operate the Shared Wireless Broadband Network.

(b) *Rights to early build-out in areas with a build-out commitment.* In an area where the Upper 700 MHz D Block licensee has committed, in the NSA, to build out by a certain date, a public safety entity may, with the pre-approval of the Public Safety Broadband Licensee and subject to the requirements set forth herein, construct a broadband network in that area at its own expense so long as the network is capable of operating on the Shared Wireless Broadband Network and meets all the requirements and specifications of the network required under the NSA.

(1) *Options for early build-out in areas with a build-out commitment.* In order to obtain authorization to construct a broadband network as set forth in paragraph (b) of this section, the requesting public safety entity must agree to one of the following:

(i) To, on its own, or through the Public Safety Broadband Licensee acting on its behalf, construct the network at its own expense, and upon completion of construction transfer the network to the Upper 700 MHz D Block licensee, which shall then integrate that network into the Shared Wireless Broadband Network constructed pursuant to the NSA; or

(ii) To, in agreement with the Upper 700 MHz D Block licensee, provide all funds necessary for the Upper 700 MHz D Block licensee to complete the early construction of the network, including any and all additional resource and personnel costs, allowing the Upper 700 MHz D Block licensee at all times to own, operate, and manage the network as an integrated part of the Shared Wireless Broadband Network.

(2) *Negotiation of amendment to NSA.* Under either early build out option set forth in paragraph (b)(1) of this section, the Public Safety Broadband Licensee, the Upper 700 MHz D Block licensee, and the public safety entity must, prior to any construction, negotiate an amendment to the NSA regarding this part of the network, specifying ownership rights, fees, and other terms, which may be distinct from the analogous terms governing the Shared Wireless Broadband Network, and such amendment must be approved by the Commission.

(i) Such amendment must provide the terms under which the Upper 700 MHz D Block licensee shall receive full ownership rights and shall compensate the public safety entity (or the Public Safety Broadband Licensee, where appropriate) for the construction of the network; and shall, absent agreement to the contrary, provide for such transfer and compensation to occur prior to

the scheduled build out date for such network in the NSA.

(ii) Any right to compensation from the Upper 700 MHz D Block licensee related to such early build-out shall be limited to the cost that would have been incurred had the Upper 700 MHz D Block licensee constructed the network itself in accordance with the original terms and specifications of the NSA, as reasonably determined by the parties and negotiated as part of the NSA amendment required in paragraph (b)(2) of this section. Such costs shall not include costs attributable solely to advancing the date of construction or otherwise expediting the construction process.

(3) *Operations.* The public safety entity may not commence operations on the network until ownership of the network has been transferred to the Upper 700 MHz D Block licensee. Further, no operations shall be allowed except those authorized and conducted pursuant to the authority of the Public Safety Broadband License.

(4) *Attribution of early build-out to national benchmarks.* Upon completion of construction, transfer of ownership to the Upper 700 MHz D Block licensee, and compensation as required herein, if applicable, the Upper 700 MHz D Block licensee may include the network constructed pursuant to the early build-out provisions herein for purposes of determining whether it has met its national build-out benchmarks and the build-out requirements of the NSA.

(5) *Rights to build out and operate in areas without a build-out commitment.* In areas for which the NSA does not require the Upper 700 MHz D Block licensee to build out the Shared Wireless Broadband Network, a public safety entity may build out and operate a separate, exclusive network in the 700 MHz public safety broadband spectrum at any time, provided the public safety entity has received the written approval of the Public Safety Broadband Licensee and operates its independent network pursuant to a spectrum leasing arrangement into which the public safety entity has entered with the Public Safety Broadband Licensee.

(i) Such leasing arrangement shall not require the approval or consent of the Upper 700 MHz D Block licensee; however, the Public Safety Broadband Licensee must provide the Upper 700 MHz D Block licensee with notice of the public safety entity's intent to construct in that area within 30 days of receipt of a request from a public safety entity seeking to exercise this option, and shall inform the Upper 700 MHz D Block licensee of the public safety entity's anticipated build-out date(s).

(ii) Should the Upper 700 MHz D Block licensee, within 30 calendar days from receipt of notice of the public safety entity's intent to construct in that area, certify in writing to the Public Safety Broadband Licensee that it will build out the shared network in the area within a reasonable time of the anticipated build-out date(s), as determined by the Public Safety Broadband Licensee, the Public Safety Broadband Licensee shall not allow the public safety entity to build and operate its own separate exclusive network in that area, provided that the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee execute an amendment to the NSA indicating the Upper 700 MHz D Block licensee's commitment to build the network in that area. Such commitment shall become enforceable against the Upper 700 MHz D Block licensee as part of its overall build-out requirements.

(iii) If the Upper 700 MHz D Block licensee does not exercise its option to commit to build out the network in the requested area within 30 calendar days of receipt of notice of the public safety entity's intent to construct in such area, the Public Safety Broadband Licensee and the public safety entity may proceed with a spectrum leasing arrangement, which must be filed with the Commission prior to the public safety entity commencing any operations. The spectrum leasing arrangement must take the form of a spectrum manager leasing arrangement under the rules specified in §1.9020 of this chapter, and incorporate the following conditions:

(A) The network must provide broadband operations;

(B) The network must be fully interoperable with the Shared Wireless Broadband Network;

(C) The network must be available for use by any public safety entity in the area;

(D) The network must satisfy any other terms or conditions required by the Public Safety Broadband Licensee; and

(E) The public safety entity must construct and place into operation its network within one year of the effective date of the spectrum manager leasing arrangement. If the public safety entity fails to place the network into operation within one year, the Public Safety Broadband Licensee shall terminate the spectrum leasing arrangement pursuant to §1.9020(h)(3) of this chapter. The public safety entity may also seek extended implementation authority from the Commission pursuant to the requirements of §90.629 of this chapter.

(6) Except as set forth herein, the separate network is not required to meet the other specifications of the Shared Wireless Broadband Network. Absent agreement of the public safety entity, the Public Safety Broadband Licensee, and the Upper 700 MHz D Block licensee, the separate network may not operate using any spectrum associated with the Upper 700 MHz D Block license.

(7) The Public Safety Broadband Licensee must file with the Commission any spectrum manager leasing arrangement as specified in §1.9020(e) of this chapter; such filing shall identify the public safety entity leasing the spectrum, the particular areas of spectrum leased as part of this build-out option, and the specific network infrastructure and equipment deployed on such leased spectrum.

§ 27.1333 Geographic partitioning, spectrum disaggregation, license assignment, and transfer.

(a) The 700 MHz Upper D Block license may not be partitioned or disaggregated.

(b) The 700 MHz Upper D Block licensee will be permitted to assign or transfer its license subject to Commission review and prior approval. The Upper 700 MHz D Block license assignment or transfer applications are precluded from the immediate approval procedures as specified in §1.948(j)(2).

[72 FR 48854, Aug. 24, 2007, as amended at 72 FR 67577, Nov. 29, 2007]

§ 27.1335 Prohibition on discontinuance of public safety operations.

The Upper 700 MHz D Block licensee, the Operating Company and the Network Assets Holder are prohibited from discontinuing or degrading the broadband network service provided to the Public Safety Broadband Licensee or to public safety entities unless either at the request of the public safety entity or entities in question or with the pre-approval of the Commission. The Upper 700 MHz D Block licensee shall notify the affected public safety entity or entities and the Public Safety Broadband Licensee at least 30 days prior to any unrequested discontinuance or degradation of network service.

§ 27.1340 Reporting obligations.

(a) The Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee shall jointly file quarterly reports with the Commission. These reports shall include audited financial statements, how the specific requirements of public safety are being met, detailed information on the areas where broadband service has been deployed, which public safety entities are using the broadband network in each area of operation, what types of applications are in use in each area of operation, and the number of declared emergencies in each area of operation.

(b) The Upper 700 MHz D Block licensee and Public Safety Broadband Licensee have joint responsibility to register the base station locations with the Commission, providing basic technical information, including geographic location.

PART 32—UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

Subpart A—Preface

Sec.

32.1 Background.
32.2 Basis of the accounts.
32.3 Authority.
32.4 Communications Act.