

Federal Communications Commission

§ 1.9048

leasing arrangements entered into pursuant to the rules of this subpart must contain the following provisions:

(1) The spectrum lessee must comply at all times with applicable rules set forth in this chapter and other applicable law, and the spectrum leasing arrangement may be revoked, cancelled, or terminated by the licensee or Commission if the spectrum lessee fails to comply with the applicable requirements;

(2) If the license is revoked, cancelled, terminated, or otherwise ceases to be in effect, the spectrum lessee has no continuing authority or right to use the leased spectrum unless otherwise authorized by the Commission;

(3) The spectrum leasing arrangement is not an assignment, sale, or transfer of the license itself;

(4) The spectrum leasing arrangement shall not be assigned to any entity that is ineligible or unqualified to enter into a spectrum leasing arrangement under the applicable rules as set forth in this subpart;

(5) The licensee shall not consent to an assignment of a spectrum leasing arrangement unless such assignment complies with applicable Commission rules and regulations.

(b) Agreements between licensees that hold licenses subject to the Commission's installment payment program (*see* §1.2110 of subpart Q of this part and related service-specific rules) and spectrum lessees must contain the following additional provisions:

(1) The express acknowledgement that the license remains subject to the Commission's priority lien and security interest in the license and related proceeds, consistent with the provisions set forth in §1.9045; and

(2) The agreement that the spectrum lessee shall not hold itself out to the public as the holder of the license and shall not hold itself out as a licensee by virtue of its having entered into a spectrum leasing arrangement.

§ 1.9045 Requirements for spectrum leasing arrangements entered into by licensees participating in the installment payment program.

(a) If a licensee that holds a license subject to the Commission's installment payment program (*see* §1.2110 of

subpart Q of this part and related service-specific rules) enters into a spectrum leasing arrangement pursuant to the rules in this subpart, the licensee remains fully and solely responsible for the outstanding debt amount owed to the Commission. Nothing in a spectrum leasing arrangement, or arising from a spectrum lessee's bankruptcy or receivership, can modify the licensee's sole responsibility for its obligation to repay its entire debt obligation under the installment payment program pursuant to applicable Commission rules and regulations and the associated note(s) and security agreement(s).

(b) If a licensee holds a license subject to the installment payment program rules (*see* §1.2110 and related service-specific rules), the licensee and any spectrum lessee must execute the Commission-approved financing documents. No licensee or potential spectrum lessee may file a spectrum leasing notification or application without having first executed such Commission-approved financing documentation. In addition, they must certify in the spectrum leasing notification or application that they have both executed such documentation.

[68 FR 66277, Nov. 25, 2003, as amended at 69 FR 77558, Dec. 27, 2004]

§ 1.9047 Special provisions relating to leases of educational broadband service spectrum.

Licensees in the Educational Broadcasting Service may enter into spectrum leasing arrangements with spectrum lessees only insofar as such arrangements comply with the applicable requirements for spectrum leasing arrangements involving spectrum in that service as set forth in §27.1214 of this chapter

[69 FR 72027, Dec. 10, 2004]

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

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