



# NEWS

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Report No. WT 98-12

WIRELESS TELECOMMUNICATIONS ACTION

April 27, 1998

## FCC ADOPTS PARTITIONING AND DISAGGREGATION RULES FOR LMDS LICENSES (CC Docket No. 92-297)

The Commission has adopted a *Fourth Report and Order (Fourth R & O)* regarding partitioning and disaggregation rules for Local Multipoint Distribution Service (LMDS) licenses. The LMDS auction concluded on March 25, 1998. LMDS spectrum may be used to provide a variety of broadband services; including wireless telephony, internet access and video. The Commission believes that these rules will bring to LMDS the competitive benefits that are at the core of the Commission's partitioning and disaggregation policy - more efficient use of spectrum, increased opportunities for a variety of entities, including small businesses, to participate in the provision of LMDS, and expedited delivery of service to unserved areas.

On March 13, 1997, the Commission adopted a *Second Report and Order, Order on Reconsideration and Fifth Notice of Proposed Rulemaking (Fifth NPRM)*, establishing service rules to govern the licensing and operation of LMDS. Specifically, the *Fifth NPRM* proposed procedural, administrative and operational rules to govern LMDS partitioning and disaggregation. The *Fourth R & O* adopts, with some variation, the proposals set forth in the *Fifth NPRM*. The adopted rules provide LMDS licensees with the same flexibility to structure partitioning and disaggregation agreements that other wireless licensees possess.

Partitioning is the reassignment of licenses by geographic areas other than those used by the Commission in the original licensing process. Disaggregation is the assignment of discrete portions, or "blocks," of spectrum licenses to another qualifying entity.

Specifically, the *Fourth R & O* sets forth the following partitioning and disaggregation rules for LMDS:

- Partitioning of LMDS licenses is permitted based on any geographic area defined by the parties, provided they submit information to the Commission regarding the relevant boundaries or coordinates.
- Disaggregation of LMDS spectrum is allowed for any amount of spectrum, with no requirement that the disaggregator retain a certain amount of spectrum.
- Combined partitioning and disaggregation is permitted.

- Parties to LMDS partitioning (or combined partitioning/disaggregation) agreements will have two construction options for the partitioned area. Under the first option, the partitionee may certify that it will satisfy the substantial service requirement for its partitioned area. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire market.
- Parties to LMDS disaggregation (or combined partitioning/disaggregation) agreements must state which of the parties will be responsible for meeting the substantial service requirement for the licensed area. Alternatively, parties may agree to share responsibility for meeting the construction requirement.
- Upon FCC approval, LMDS partitionees and disaggregates will hold their licenses for the remainder of the original licensees' ten-year term and may earn a renewal expectancy similar to other LMDS licensees.
- Unjust enrichment payments for LMDS licensees that obtained a bidding credit at auction and partition or disaggregate to an entity that would not have qualified for such a credit will be calculated on a *pro rata* basis, using population for partitioned areas, the amount of spectrum for disaggregated spectrum, and some combination thereof for combined partitioning and disaggregation.
- The Commission's current Part 101 assignment procedures will apply to LMDS partitioning and disaggregation.

Action by the Commission, April 21, 1998, by *Fourth Report and Order* (FCC 98-77).  
Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani.

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