

with the Commission's rules for obtaining approval for spectrum leasing arrangements provided in this subpart and are governed by those same policies. The application filed by parties to a spectrum subleasing arrangement must include written consent from the licensee to the proposed arrangement. Once a spectrum subleasing arrangement has been approved by the Commission, the sublessee becomes the party primarily responsible for compliance with Commission rules and policies.

(k) *Renewal.* A licensee and spectrum lessee that have entered into a spectrum leasing arrangement whose term continues to the end of the current term of the license authorization may, contingent on the Commission's grant of the license renewal, extend the spectrum leasing arrangement during the term of the renewed license authorization. The licensee must notify the Commission of such an extension of the spectrum leasing arrangement on the same application it submits for license renewal (see § 1.949 of subpart F of this part). The spectrum lessee may operate under the extended term, without further action by the Commission, until such time as the Commission shall make a final determination with respect to the extension of the spectrum leasing arrangement.

§ 1.9035 Short-term de facto transfer leasing arrangements.

(a) *Overview.* Under the provisions of this section, a licensee (in any of the included services) and a spectrum lessee may enter into a short-term *de facto* transfer leasing arrangement in which the licensee retains *de jure* control of the license while *de facto* control of the leased spectrum is transferred to the spectrum lessee for the duration of the spectrum leasing arrangement, subject to prior Commission consent pursuant to the application procedures set forth in this section. A "short-term" *de facto* transfer leasing arrangement has an individual or combined term of not longer than 360 days.

(b) *Rights and responsibilities of licensee.* The rights and responsibilities applicable to a licensee that enters into a short-term *de facto* transfer leasing arrangement are the same as those applicable to a licensee that enters into a long-term *de facto* transfer leasing arrangement, as set forth in § 1.9030(b).

(c) *Rights and responsibilities of spectrum lessee.* The rights and responsibilities applicable to a spectrum lessee that enters into a short-term *de facto* transfer leasing arrangement are the same as those applicable to a

spectrum lessee that enters into a long-term *de facto* transfer leasing arrangement, as set forth in § 1.9030(c).

(d) *Applicability of particular service rules and policies.* Under a short-term *de facto* leasing arrangement, the service rules and policies apply to the licensee and spectrum lessee in the same manner as under long-term *de facto* transfer leasing arrangements (see § 1.9030(d)), except as provided herein:

(1) *Use restrictions and regulatory classification.* Use restrictions applicable to the licensee also apply to the spectrum lessee except that § 20.9(a) of this chapter shall not preclude a licensee in the services covered by that rule from entering into a spectrum leasing arrangement with a spectrum lessee that chooses to operate on a PMRS, private, or non-commercial basis, and except that a licensee with an authorization that restricts use of spectrum to non-commercial uses may enter into a short-term *de facto* transfer leasing arrangement that allows the spectrum lessee to use the spectrum commercially.

(2) *Designated entity/entrepreneur rules.* Unjust enrichment provisions (see § 1.2111 of subpart Q of this part) and transfer restrictions (see § 24.839 of this chapter) do not apply with regard to a short-term *de facto* transfer leasing arrangement.

(3) *Construction/performance requirements.* The licensee is not permitted to attribute to itself the activities of its spectrum lessee when seeking to establish that performance or build-out requirements applicable to the licensee have been met.

(4) *Cellular cross-interest rule and policies.* The cellular cross-interest rule and policies (see § 22.942 of this chapter) do not apply with regard to short-term *de facto* transfer leasing arrangements.

(5) *E911 requirements.* If E911 obligations apply to the licensee (see § 20.18 of this chapter), the licensee retains the obligations with respect to leased spectrum. A spectrum lessee entering into a short-term *de facto* transfer leasing arrangement is not separately required to comply with any such obligations in relation to the leased spectrum.

(e) *Spectrum leasing application.* Parties entering into a short-term *de facto* transfer leasing arrangement are required to file an electronic application with the Commission, using FCC Form 603, and obtain Commission consent prior to consummating the transfer of *de facto* control of the leased spectrum, except that parties falling within the provisions of § 1.911 of subpart F of this part may file the application either

electronically or manually. Commission approval of such application is granted pursuant to special temporary authority (STA) policies (see section 309(f) of the Communications Act).

(1) *Application fees.* The spectrum leasing application will be treated as a transfer of control for purposes of determining the applicable application fees as set forth in § 1.1102 of subpart G of this part.

(2) *Approval procedures.* (i) The spectrum leasing application must be filed at least ten (10) days prior to the date on which the spectrum lessee seeks to commence operation under the spectrum leasing arrangement. If the application meets the conditions specified in this section for a short-term *de facto* transfer leasing arrangement, it will be granted or denied within ten (10) days of receipt of the complete application.

(ii) The Commission may grant authority to permit operation under a short-term *de facto* transfer leasing arrangement for a maximum period of 180 days. The Commission may grant extension of the temporary authority as provided in § 1.9035(g)(2).

(iii) In no event may parties use the procedures for short-term *de facto* transfer leasing arrangements to enter into arrangements that would exceed 360 days.

(3) *Contents of the application.* (i) The application must contain all information requested on the applicable form, FCC Form 603, and any additional information and certifications required by the rules in this chapter and any rules pertaining to the specific service for which the application is filed.

(ii) The application must contain a showing that grant of the temporary authority to permit implementation of the short-term *de facto* transfer leasing arrangement would further the public interest.

(4) *Effective date of spectrum leasing arrangement.* The spectrum leasing arrangement will be deemed effective in the Commission's records, and for purposes of the application of the rules set forth in this section, on the date specified in the grant of temporary authority.

(f) *Restrictions on the use of short-term de facto transfer leasing arrangements.* (1) The licensee and spectrum lessee are not permitted to use the special rules and expedited procedures applicable to short-term *de facto* transfer leasing arrangements for arrangements that in fact will exceed 360 days, or that the parties reasonably expect to exceed 360 days.

(2) The licensee and spectrum lessee must submit, in sufficient time prior to