

Federal Communications Commission

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along with the radiation pattern if it is not included within the Commission's database.

(3) The number and identification of EBS video programming or data transmission tracks the EBS licensee is entitled to receive in the MBS (see §27.1233(b)).

[71 FR 35193, June 19, 2006, as amended at 73 FR 26042, May 8, 2008]

§ 27.1237 Pro rata allocation of transition costs.

(a) *Self-transitions.* EBS licensees that self-transition may seek reimbursement for their costs to replace eligible downconverters (see §27.1233(a)) and to migrate video programming and data transmission tracks (see §27.1233(b)) from BRS licensees and lessees, EBS lessees, and commercial EBS licensees in the BTA where the center point of the EBS licensee's GSA is located. In addition, BRS licensees and lessees, EBS lessees, and commercial EBS licensees in the LBS or UBS must reimburse the self-transitioning EBS licensee a pro rata share of the eligible costs of transitioning EBS licensees, based on the formula in paragraph (c) of this section. Eligible costs are listed in §27.1238.

(b) *Proponent-driven transitions.* BRS licensees and lessees, entities that lease EBS spectrum for a commercial purpose, and commercial EBS licensees must pay their own transition costs. In addition, except for MVPD operators that opt-out of the transition, BRS licensees and lessees, EBS lessees, and commercial EBS licensees in the LBS or UBS must reimburse the proponent a pro rata share of the eligible costs of transitioning EBS licensees, based on the formula in paragraph (c) of this section. Eligible costs are listed in §27.1238.

(c) *Formula.* The pro rata share shall be based on the following formula:

$$R = \frac{L \times LP}{T \times TP}$$

- (1) R equals the pro rata share;
- (2) L equals the amount of spectrum used by a BRS licensee or lessee or commercial EBS licensee or lessee to

provide a commercial service, either directly or through a lease agreement with an EBS or BRS licensee;

(3) T equals the total amount of spectrum licensed or leased for commercial purposes in the BTA;

(4) LP equals the population of the geographic service area or BTA served by the BRS licensee or lessee or commercial EBS licensee or lessee based on the data in the 2000 United States Census; and

(5) TP equals the population of the BTA based on the data in the 2000 United States Census.

[71 FR 35193, June 19, 2006]

§ 27.1238 Eligible costs.

(a) The costs listed in paragraphs (b) through (f) of this section are eligible costs.

- (b) *Pre-transition costs:*
 - (1) Engineering/Consulting
 - (i) Evaluation of equipment;
 - (ii) RX site identification;
 - (iii) EBS Programming plan covering the BTA;
 - (iv) Market Analysis (MHz per POP Study);
 - (v) RF study (interference analysis); and
 - (vi) Transition Plan creation and support;
 - (2) Project management (may be sourced external);
 - (3) Filing fees;
 - (4) Legal fees;
 - (5) Site acquisition fees-contractor; and
 - (6) Arbitrator fee;
- (c) *Transmission facility— analog conversion costs:*
 - (1) Transmitter upgrading or re-tuning;
 - (2) Combiner re-tuning or new;
 - (3) Power divider/circulator adjacent channel combiner hardware;
 - (4) STL/fiber relocation;
 - (5) Miscellaneous material costs (including cabling and connectors);
 - (6) Contract labor:
 - (i) Tower;
 - (ii) Building modifications;
 - (iii) Electrical/HVAC; and
 - (iv) Mechanical
 - (7) Engineering:
 - (i) Structural; and
 - (ii) Pathway Interference Analysis.
 - (8) Equipment disposal/shipping

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(9) Program Management (third party or internal costs to manage the BTA conversion); and

(10) Travel and Per Diem Cost.

(d) *Transmission facility-digital conversion costs:*

(1) New transmitter or retuning;

(2) Digital compression equipment-TX site (including encoders, controller, and software);

(3) Combiners-new or retune;

(4) Power divider/circulator adjacent channel combiner hardware;

(5) Cabinets, cabling, feedline and connectors;

(6) STL—fiber digital upgrade;

(7) Installation cost due to adding additional broadcast antenna (4 or more digital channels required);

(8) Contract labor:

(i) Tower;

(ii) Building modifications;

(iii) Electrical/HVAC; and

(iv) Mechanical.

(9) Proof of performance testing (may be contracted);

(10) Engineering:

(i) Structural; and

(ii) Path engineering analysis.

(11) Equipment disposal/shipping;

(12) Training;

(13) Program management (third party or internal costs to manage BTA conversion);

(14) Travel and per diem costs.

(e) *Qualified receive-sites only-modifications (analog and digital):*

(1) Digital set top boxes;

(2) Downconverters (with filtering)/antennas (replacement downconverters);

(3) Contract labor:

(i) Antenna change/DC install (antenna change may be necessary); and

(ii) Electrical; and mechanical

(4) Project management (third party or internal costs to manage the BTA conversion);

(5) Proof of performance testing (may be contracted);

(6) Mini headend (cost effective distribution method):

(i) Modulators, combiners;

(ii) Equipment racks; and

(iii) Amplifiers

(7) Cable, connectors; and

(8) Training.

(f) *Miscellaneous transition fees.* (1) Filing fees;

(2) Arbitrator fee; and

(3) Legal fees.

[71 FR 35193, June 19, 2006]

§ 27.1239 Reimbursement obligation.

(a) A proponent may request reimbursement from BRS licensees and lessees, EBS lessees, and commercial EBS licensees in a BTA after the Transition Notification has been filed with the Secretary of the Commission and the proponent has accumulated the documentation to substantiate the full and accurate cost of the transition. A self-transitioning licensee may request reimbursement from BRS licensees and lessees, EBS lessees, and commercial EBS licensees in a BTA where its GSA geographic center point is located after it has completed the self-transition and has filed a modification application with the Commission and has accumulated the documentation to substantiate the full and accurate cost of the transition.

(b) If a license is assigned, transferred, partitioned, or disaggregated, all parties to the assignment, transfer, disaggregation, or partition are jointly and severally liable for paying the reimbursement obligation until that obligation is paid.

[71 FR 35193, June 19, 2006]

RELOCATION PROCEDURES FOR THE 2150–2160/62 MHz BAND

SOURCE: Sections 27.1250 through 27.1255 appear at 71 FR 29840, May 24, 2006, unless otherwise noted.

§ 27.1250 Transition of the 2150–2160/62 MHz band from the Broadband Radio Service to the Advanced Wireless Service.

The 2150–2160/62 MHz band has been allocated for use by the Advanced Wireless Service (AWS). The rules in this section provide for a transition period during which AWS licensees may relocate existing Broadband Radio Service (BRS) licensees using these frequencies to their assigned frequencies in the 2496–2690 MHz band or other media.

(a) AWS licensees and BRS licensees shall engage in mandatory negotiations for the purpose of agreeing to