

Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of)	
)	
Expanding Flexible Use of the 3.7 to)	GN Docket No. 18-122
4.2 GHz Band)	IB Docket No. 20-205

To: the Chief, Wireless Telecommunications Bureau
Via: ECFS

MOTION FOR EXTENSION OF TIME TO SUBMIT
LUMP-SUM COST REIMBURSEMENT PAYMENT ELECTIONS

The Society of Broadcast Engineers, Incorporated (SBE), the national association of technical operating personnel for broadcast radio, television and related telecommunications fields, by counsel, hereby respectfully submits its Motion for Extension of Time, to and including September 30, 2020, within which C-Band Earth Station owners who have registered their antennas and are eligible for cost reimbursement for the C-Band repack to submit lump-sum reimbursement requests (should they desire to do so as an alternative to submitting actual cost reimbursement requests) pursuant to the *Public Notice*, DA 20-802, released July 30, 2020 in the captioned docket proceedings (the *Public Notice*).¹ The *Public Notice* specifies a date of August 31, 2020 within which the lump-sum reimbursement election must be made and effectuated. It is SBE's suggestion that this is an insufficient time period for broadcasters and broadcast engineers to satisfy the requirements of the Public Notice, and that an additional period of thirty (30) days,

¹ See, *Wireless Telecommunications Bureau Releases Final Cost Category Schedule For 3.7-4.2 GHz Band Relocation Expenses And Announces Process and Deadline for Lump Sum Elections*, DA-20-802.

essentially including the month of September, 2020, is required. As good cause for this Motion, SBE states and affirms as follows:

1. The Commission has allocated the 3.7-4.0 GHz segment for auctionable 5G spectrum, and is holding the auction in December of this year.² The Report and Order held that C-Band Earth stations in the fixed satellite service (FSS) would be relegated to the 200 megahertz at 4.0-4.2 GHz, necessitating a “repack” of incumbent FSS Earth Stations operating in whole or in part in the band 3.7-4.0 GHz into the segment 4.0-4.2 GHz. The Report and Order held that new 5G commercial mobile licensees will *reimburse the reasonable relocation costs of eligible*, incumbent FSS space station operators, *incumbent FSS earth station operators*, and incumbent Fixed Service licensees to move out of 3.7-4.0 GHz and into the 4.0-4.2 GHz segment. To provide FSS Earth Station incumbents with a range of what are considered reasonable transition costs, the Report and Order directed the Wireless Bureau to establish a cost category schedule of the types of expenses that incumbents are likely to incur. The Report and Order held that a Relocation Payment Clearinghouse would be established, to oversee the cost administration of the transition, including collecting relocation payments from 5G auction winners, and disbursing those payments to incumbents.

2. In determining the reasonableness of costs for which registered C-band Earth Station owners may seek reimbursement, the Report and Order held that the Clearinghouse would presume to be reasonable *all submissions that fall within the estimated range of costs in the final cost category schedule*. Incumbent earth station operators, satellite operators, and Fixed Service licensees would not be precluded, however, from obtaining reimbursement for their actual costs that exceed the amounts in the Cost Catalog, so long as those costs are reasonably necessary to

² *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343 (released March 3, 2020) (*Report and Order*).

the transition, and incumbents provide justification to the Clearinghouse. Most importantly, the Report and Order also established that *incumbent FSS Earth station operators may accept either: (1) reimbursement for their actual reasonable relocation costs to maintain satellite reception; or (2) a lump sum reimbursement “based on the average, estimated costs of relocating all of their incumbent earth stations” to the upper 200 megahertz of the C-band.* So broadcasters with C-band FSS antennas that must be repacked have a choice: they can, after the fact, ask for reimbursement of actual expenses (which may or may not be approved by the Clearinghouse, if they exceed the costs in the Cost Catalog); or they can apply for and receive a lump sum based on the cost estimates in the Cost Catalog.

3. Unfortunately, though the Report and Order was released March 3, 2020, neither the *Public Notice* announcing the process, nor the Cost Catalog, was released until July 30, 2020, almost *four months* after the Report and Order was released. More unfortunately, the *Public Notice* specified a mere 30 days within which the large number of broadcasters and broadcast engineers who must evaluate, prepare and submit their election for lump sum payments, during the midst of the COVID-19 pandemic, which has kept many from their workplaces, and during the month of August, which is vacation season for many.

4. It is readily apparent on the face of the *Public Notice* and the Cost Catalog that a month is in any case an insufficient period of time to make the election, after determining how to proceed. It is a complex calculation.³ The *Public Notice* indicates what is reimbursable and what

³ The Report and Order warned of the complexity of the determination. At paragraph 202 of the Report and Order, the Commission “recognize(d) that replacing existing C-band operations with fiber or other terrestrial services may be, for some earth stations, more expensive by an order of magnitude. As such, incumbent earth station operators will have a choice: They may either accept reimbursement for the reasonable relocation costs by maintaining satellite reception or they may accept a lump sum reimbursement for *all* of their incumbent earth stations based on the average, estimated costs of relocating all of their incumbent earth stations. Incumbent earth station owners that elect the lump sum payment will not be eligible to submit estimated or actual reasonable relocation costs to the Clearinghouse. We require incumbent earth station operators (including any affiliates) to elect one of these two options, which must apply to all of each earth station operator’s earth stations in the contiguous United States in

is not. It also establishes the process for electing lump sum payments. There is a lot to it: incumbent Earth station owners currently must make their lump sum payment election no later than August 31, 2020, by which time they have to indicate whether each incumbent Earth station for which they elect the lump sum payment will be transitioned to the upper 200 megahertz in order to maintain C-band services or will discontinue C-band services. Earth Station owners choosing the lump sum election must submit the election in IB Docket No. 20-205, and provide the following information for each of that operator's incumbent earth station sites:

1. Licensee/Registrant/Applicant Name,
2. Earth Station Callsign,
3. Site ID,
4. Antenna ID,
5. Number of antennas associated with that Antenna ID,
6. Site address,
7. GPS coordinates of the earth station,
8. File Number(s) of current authorization and/or pending application,
9. Confirmation that the earth station meets the definition of incumbent earth station under 47 CFR §§ 27.1411(b)(3) and 25.138(c), including indication of whether earth station appears on the International Bureau's final list of eligible earth stations,
10. Category of lump sum election for each registered antenna at that registered earth station site (e.g. Receive Only ES Single-feed; Receive Only ES Multi-feed; Small Multi-beam (2-4 beams) ES, etc.),
11. Whether earth station site is an MVPD earth station site (to claim the per-site technology upgrade installation amount),
12. Total lump sum amount claimed for that earth station (calculated by the number of registered antennas at that incumbent earth station multiplied by the relevant lump sum base amount, plus technology upgrade installation amount if MVPD), and
13. Whether the incumbent earth station will be transitioned to the upper 200 megahertz in order to maintain C-band services or will discontinue C-band services.

5. This is a short snapshot of the extensive analyses and information gathering and approvals from station management that need to be obtained in order for broadcast engineers to

order to prevent any improper cost shifting. And we require the decision to accept a lump sum reimbursement to be irrevocable—by accepting the lump sum, the incumbent takes on the risk that the lump sum will be insufficient to cover all its relocation costs—to ensure that incumbents have the appropriate incentive to accept the lump sum only if doing so is truly the more efficient option.” (footnotes omitted)

be allowed to proceed with a determination of costs and, if applicable, a lump-sum payment election. It is in many, perhaps most cases true that the broadcast engineer is responsible for providing the information in order to make the determination and the election. SBE is well-aware of the transition timetables and the need to clear the 3.7-4.0 GHz segment at the earliest possible time. However, the auction is not scheduled until December 3, 2020 and the Phase I timetable for Accelerated Relocation is not until December 5, 2021, so it is unclear why the August 31, 2020 deadline for lump-sum elections is so short. There can be no impact on any of the repack deadlines from extension of the lump-sum election deadline for an additional 30 days, to and including September 30, 2020.

6. SBE deems this C-Band repack process to be of exceptional importance to its members and to broadcasters generally. SBE sponsored and conducted on July 23, 2020 a webinar on the subject of the C-Band repack, including all aspects of the Report and Order. However, that webinar, having preceded by a week the release of the *Public Notice* and the Cost Catalog, was unable to cover the many important details and processes involved in the lump-sum election process. SBE will continue to educate its members about this process, the timetables, and the necessary steps to take to ensure a smooth transition, but the Commission has, simply stated, provided an inadequate amount of time for broadcast engineers and broadcasters, and other C-band Earth station operators who are entitled to reimbursement for costs incurred in the repack to make the necessary determinations, evaluate their options, and to complete the election process. This is especially cumbersome during the COVID pandemic and the August timetable.

Therefore, the foregoing considered, the Society of Broadcast Engineers, Incorporated hereby respectfully requests that the Commission extend the time, to and including September 30, 2020, within which incumbent FSS Earth station operators may elect to accept either: (1)

reimbursement for their actual reasonable relocation costs to maintain satellite reception; or (2) a lump sum reimbursement “based on the average, estimated costs of relocating all of their incumbent earth stations” to the upper 200 megahertz of the C-band, and to submit that irrevocable election to the Commission.

Respectfully submitted,

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August 17, 2020