

**Federal Communications Commission**

**§ 27.1238**

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