

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
LPTV, TV Translator and FM Broadcast Station)	MB Docket No. 18-214
Reimbursement)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through)	
Incentive Auctions)	
)	

COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”)¹ files these comments in the above-captioned proceeding to address the question of whether stations should receive reimbursement for their relocation expenses from the Reimbursement Fund if they receive or have received reimbursement of these expenses from other sources.² To address this issue, the Commission should conclude that stations receiving funds from third parties are eligible to receive funds from the Reimbursement Fund after making a certification to prevent the double recovery of their relocation expenses. This approach will expedite the post-auction transition process necessary to facilitate the rapid deployment of broadband service by allowing the continued advance funding of these expenses by third parties such as T-Mobile while the Commission establishes the low power television (“LPTV”) reimbursement program, without penalizing these entities for doing so.

¹ T-Mobile USA, Inc. is a wholly owned subsidiary of T-Mobile US, Inc., a publicly traded company.

² *In re LPTV, TV Translator, and FM Broadcast Station Reimbursement*, Notice of Proposed Rulemaking and Order, MB Docket No. 18-214, FCC 18-113 ¶¶ 47-49 (rel. Aug. 3, 2018) (“*Reimbursement Fund NPRM*”).

DISCUSSION

T-Mobile is committed to rapidly deploying its 600 MHz spectrum to provide mobile broadband to consumers across the country, especially in previously underserved rural areas. Because of this and in recognition that Congress did not initially provide relocation funding to translator and LPTV stations (collectively, “LPTV”),³ T-Mobile voluntarily provided technical and financial support to help reimburse LPTV stations for the reasonable costs associated with the second move of a station displaced because of T-Mobile’s 600 MHz deployment.⁴ Additionally, T-Mobile committed to funding the post-auction transition for PBS member and associated stations to their new displacement channels.⁵ Finally, T-Mobile has engaged in a number of additional efforts to assist LPTV stations, ranging from working with LPTV stations on the timing of moving off a channel to limit any disruption, to providing technical and, in some cases, financial assistance.

While T-Mobile was willing to step in where Congress had not, to facilitate a smooth transition for LPTV stations, the expansion of the Reimbursement Fund by the Reimbursement Expansion Act (“REA”) of 2018 has now established a federally-administered source of funds for these purposes. T-Mobile strongly supported the enactment of the REA and agrees that LPTV stations should not receive duplicate payments from both the Reimbursement Fund and third parties like T-Mobile.⁶ As described in more detail below, the Commission should address this issue in a way that is consistent with the flexibility Congress deliberately provided to

³ *Id.* ¶ 1.

⁴ *Id.* ¶ 15 & n.67 (citing Letter from Steve B. Sharkey, Vice President, Government Affairs, T-Mobile, to Marlene H. Dortch, MB Docket No. 16-306 (filed July 17, 2017)).

⁵ *Id.* ¶ 47.

⁶ *Id.*

facilitate the rapid deployment of wireless service and transition of LPTV stations in the 600 MHz band.

Specifically, the Commission should require LPTV stations seeking reimbursement from the Reimbursement Fund to self-certify under penalty of perjury that they will not receive duplicate payments from both the Reimbursement Fund and a third party for expenses eligible for reimbursement under the REA. LPTV stations that have not received equipment or financing in advance, even if the equipment or financing is pledged from a third party, would simply need to self-certify at the time they request reimbursement from the Reimbursement Fund that the eligible expense was not already reimbursed from a third party or vendor. LPTV stations that have already received advanced equipment or financial support from third parties would certify that within a reasonable period of time – for example, 30 days – after receiving funding from the Fund they will reimburse the equipment vendors or return those funds.⁷

Regarding this latter scenario, it would be both impractical and unwise to require the hundreds of LPTV stations that have already received new equipment to remove and then replace it to be eligible for reimbursement from the Reimbursement Fund. The REA was enacted well after the start of the LPTV community transitioning out of the 600 MHz band, and unscrambling the egg should not be a condition precedent to receiving reimbursement from the Fund, as long as the Commission has the assurance, under oath, that the private funds will be returned within 30 days. If the Commission wanted to take more of an incremental approach to reimbursement, it could require LPTV stations in this circumstance to submit an invoice and documentation of a third party payment with its certification and make an initial disbursement of only half of the

⁷ The certification would be limited to eligible expenses where reimbursement from the Reimbursement Fund is sought and would not impact any arrangement unrelated to eligible expenses.

requested funding, with the balance to be disbursed upon the provision of additional documentation showing return of payment to the vendor or third party.

Alternatively, the Commission could require documentation from the LPTV station as part of the invoice submission for reimbursement from the Reimbursement Fund demonstrating that it has already refunded monies to the third party or vendor. This would require only a single documentation collection, but it would require the LPTV station to serve as a “bridge” in the reimbursement process: returning funds to the vendor or third party prior to receiving said funds from the Reimbursement Fund. T-Mobile’s experience in this process though has been that many LPTV stations do not have access to substantial financial capital and this bridging may be impracticable for many LPTV stations.

The mechanism T-Mobile proposes above is a fair and equitable process that accomplishes the instruction of Congress in the REA. It would prevent LPTV stations that received resources prior to enactment of the REA, or may receive during the pendency of implementation of the REA, from receiving duplicative payments from a third-party funding source. At the same time, it would also hold wireless carriers and others that sought to help – and are continuing to help – affected LPTV stations harmless prior to the enactment of the REA and its subsequent implementation through this rulemaking proceeding.⁸ T-Mobile and others stepped up at a time when there were no funds available for this purpose, and it would be unfair to impose a continuing obligation on the company now that the Reimbursement Fund includes funding for LPTV relocation.

⁸ The “continuing” to help aspect should not be overlooked by the Commission in this instance. By the time these reimbursement rules are adopted, a substantial number of the LPTV stations will have already transitioned to their new facilities. This is a substantially different scenario than the Full Power and Class A reimbursement process where funds are provided proximate to the incurred expenses by the broadcasters.

Additionally, the text of the REA supports the approach T-Mobile is proposing. The statute authorizes the reimbursement of the relocation costs incurred by LPTV stations that have filed an application in the Commission’s Special Displacement Window.⁹ As the NPRM acknowledged, the REA lacks an express provision addressing duplicate payments for LPTV relocation.¹⁰ Despite the NPRM’s contrary suggestion, a cost that is reimbursed by another source of funding is still a “cost . . . incurred” by the station under the statute, given that a station must first *incur* such costs before seeking reimbursements from third parties.¹¹ If a cost reimbursed by another funding source is not a “cost . . . incurred” by a station, Congress would not have had any reason to include a specific prohibition on duplicate payments for Class A and FM stations in the same statute, as such specific provisions would have been superfluous.¹² Allowing LPTV stations that will receive or have already received third-party funding or vendor financing to seek reimbursement from the Reimbursement Fund would therefore squarely align with the statutory text of the REA.

Addressing the duplicate payment issue through certifications would add minimal administrative inconvenience. The NPRM already proposes that LPTV and translator stations seeking reimbursement file a certification that they meet the eligibility criteria for reimbursement, with information regarding their current broadcasting equipment and an estimate for their costs eligible for reimbursement.¹³ An additional certification that no duplicate

⁹ 47 U.S.C. § 1452(k)(1).

¹⁰ *Reimbursement Fund NPRM* ¶ 47. *Cf.* 47 U.S.C. § 1452(k)(3) (prohibiting duplicate payments to Class A stations); 47 U.S.C. § 1452(l)(1)(C) (prohibiting duplicate payments to FM stations).

¹¹ 47 U.S.C. § 1452(k)(1).

¹² *See* 47 U.S.C. § 1452(k)(3) (prohibiting duplicate payments to Class A station’s); *id.* § 1452(l)(1)(C)(prohibiting duplicate payments to FM stations).

¹³ *Reimbursement Fund NPRM* ¶ 2.

payment is being sought – either because the station has not received any third-party payment or has returned all such payments to the third party – would not be unduly burdensome, and it would rely on the same mechanism that the Commission proposes to use to establish eligibility. This approach would also obviate the need to collect information on the amount that the LPTV stations have received or expect to receive from third parties, given that they must certify that any third-party payments for the same eligible expenses have been returned.

CONCLUSION

For the foregoing reasons, the Commission should allow displaced LPTV stations that receive or have received reimbursement funding from a third party to seek such funding from the Reimbursement Fund, provided that the station certifies under penalty of perjury that any third-party payment already received for those expenses has been returned. Such an approach would not only be consistent with Congress's objective in its enactment of the REA, but would also avoid penalizing entities like T-Mobile for taking a proactive approach to help expedite the post-auction transition process prior to Congress's actions.

Respectfully submitted,

/s/ Steve B. Sharkey

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