

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Amendment of the Schedule of Application
Fees Set Forth in Sections 1.1102 through
1.1109 of the Commission's Rules

MD Docket No. 20-270

COMMENTS OF NATIONAL EBS ASSOCIATION

The National EBS Association (“NEBSA”) submits these comments in response to the above-referenced Notice of Proposed Rulemaking, released August 26, 2020 (“*Notice*”).

NEBSA is the professional association for the Educational Broadband Service (“EBS”) community, representing PreK-12 and post-secondary schools and other educational nonprofit entities holding EBS licenses. For decades, NEBSA has participated in virtually every proceeding involving EBS. NEBSA’s participation has helped shape important policy issues concerning the use of wireless technology in education.

In the *Notice*, the Commission proposes to adopt a new framework for application filing fees consistent with the provisions of the RAY BAUM’S Act of 2018.¹ That Act requires the Commission to adopt an application fee schedule calculated to recover the cost of processing applications and to amend the schedule as needed to reflect increases or decreases in processing costs or the consolidation or addition of new categories. The new schedule of fees is intended to

¹ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 1084, Division P – RAY BAUM’S Act of 2018 (2018).

reflect the types of applications the Commission now receives and correlate the fees to the cost of processing these applications. In the case of applications for licenses in the wireless services, the FCC proposes to consolidate application fees into categories for site-based licenses, personal licenses, and geographic licenses, the latter of which presumably would include fees for EBS applications.

The *Notice*, at ¶4, notes that Section 1.1116 of the current application fee rules includes an exemption for EBS licensees “in recognition of the fact that EBS licenses were generally held by otherwise exempt entities.” Footnote 14 states that EBS licenses are “generally held by state government agencies, universities and university systems, public community and technical colleges, private universities and colleges, public elementary and secondary school districts, private schools (including Catholic school systems and other religious schools), public television and radio stations, hospitals and hospital associations, and other non-profit entities.”

In ¶221, the *Notice* observes that the Commission in 2019 adopted an order “in which it eliminated eligibility, educational use and leasing restrictions for EBS licenses, clearing the way for commercial, non-educational use of the channels within the 2.5 GHz Band previously reserved for EBS services.” In light of these “transformational changes,” the *Notice* proposes to eliminate Section 1.1116(e)(4) which exempts EBS licensees from application fees.

NEBSA does not take issue with the notion that application fees should now apply to EBS applicants that are for-profit commercial entities, or to otherwise non-exempt applicants² that lease EBS capacity to for-profit entities for commercial purposes. However, NEBSA urges that the Commission should not impose application fees on private non-profit entities that use their own EBS licenses for the provision of educational or other noncommercial services, or

² The RAY BAUM’S Act, Section 102, and Section 1.1116(f) of both the Commission’s existing and proposed rules exempt governmental entities from the payment of application fees.

lease capacity of their EBS licenses to non-profit or governmental entities who then provide educational or other noncommercial services.

The continued exemption for EBS applicants who do not use or lease their licenses for commercial, for-profit purposes would be a narrow one. Because governmental entities are exempt in any event, the EBS exemption would only apply to private nonprofit entities – private schools, private colleges and universities and other nonprofit entities who will continue to use their existing EBS licenses only for educational and other noncommercial services or who lease capacity to other nonprofit or governmental entities who will likewise provide educational or other noncommercial services. The exemption would also apply to nonprofit applicants for new EBS licenses who certify that they intend to use or lease their new EBS licenses only for educational and other noncommercial services.

Therefore, NEBSA urges that, rather than eliminating Section 1.1116(e)(4) of the rules, that section should be amended to state as follows:

“(4) A non-profit applicant that is the licensee or proposed licensee in the Educational Broadband Service (EBS) is exempt from filing fees where the capacity of the EBS license will be used for educational and other noncommercial services and will not be leased to a for-profit entity for the provision of commercial services.”

NEBSA believes that this narrow exemption will encourage and help support those EBS licensees who continue to pursue the educational and public service mission for which EBS was originally created.

Respectfully submitted,

NATIONAL EBS ASSOCIATION



Todd D. Gray
Counsel for National EBS Association

Gray Miller Persh LLP
2233 Wisconsin Avenue, NW
Suite 226
Washington, DC 20007
202-776-2571
tgray@graymillerpersh.com

November 16, 2020