

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

In the Matter of)	
)	
Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands)	WT Docket No. 03-66 RM-10586
)	
Part 1 of the Commission's Rules - Further Competitive Bidding Procedures)	WT Docket No. 03-67
)	
Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and the Instructional Television Fixed Service to Engage in Fixed Two-Way Transmissions)	MM Docket No. 97-217
)	
Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico)	WT Docket No. 02-68 RM-9718
)	

**CONSOLIDATED REPLY TO
OPPOSITIONS TO PETITIONS FOR RECONSIDERATION**

Clearwire Corporation ("Clearwire") replies to oppositions to petitions for reconsideration of the Commission's *Report and Order* in the above-captioned proceeding¹ addressing the Broadband Radio Service ("BRS") and the Educational Broadband Service ("EBS").² The record

¹ *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165 (2004) ("*Report and Order*" and "*Further Notice*"). Petitions for reconsideration were submitted on January 10, 2005 ("Petitions for Reconsideration"), and oppositions were submitted on February 22, 2005 ("Oppositions"), unless otherwise noted.

² Clearwire supports the reply filed by the Wireless Communications Association International ("WCAI") with respect to the following issues and will not address them here: (1) BTAs should be the basis of transitions to the new band plan; (2) responses to pre-transition data requests must be provided expeditiously; (3) the first to file an initiation plan should be the proponent; (4) there must be a fair allocation of transition costs through reimbursement to the proponent; (5) EBS licensees that provide commercial services must be subject to cost-sharing; (6) self-transition must not be

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demonstrates industry consensus on a number of proposals for implementation of the new EBS/BRS rules as discussed in Section II of this reply. Significant disagreement exists among the commenters, however, regarding when cost-sharing reimbursements should be triggered and owed for transition-related expenses.³ Because a fair and efficient cost-sharing plan is critical to the success of the new regulatory regime for EBS/BRS services, and to the rapid deployment of services in the 2.5 GHz band, Clearwire focuses its reply on proposed revisions to the existing cost-sharing rule.

I. THE COMMISSION SHOULD REVISE ITS COST-SHARING RULE TO ENSURE EQUITABLE ALLOCATION OF COSTS, RAPID TRANSITIONS TO THE NEW BAND PLAN AND RAPID DEPLOYMENT OF WIRELESS BROADBAND SERVICES.

The Commission’s cost-sharing rule, as now constructed, is ambiguous and incomplete and could result in anti-competitive consequences by encouraging late network deployments and “free riders” at the expense of transition proponents.⁴ Without further Commission guidance, the cost-sharing rule for EBS and BRS transitions will not equitably and timely apportion transition-related costs among transitioned licensees. In an effort to assist the Commission in clarifying Section 27.1233(c), a proposed revision of the rule is appended as Attachment A.

A properly crafted cost-sharing rule, at a minimum, should identify: (1) the entities that will incur repayment obligations; (2) how costs are to be equitably allocated among those entities; (3) what costs are reimbursable; (4) when cost-sharing obligations are triggered; (5) when

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permitted until after the deadline for filing transition plans; (7) addition of WCAI’s proposed safe harbors “3” and “4” to avoid transition disputes; and (8) allowing proponents to reasonably withdraw initiation plans, without penalty, and later resubmit initiation plans for the same BTA.

³ Nextel, Sprint and WCAI also objected to Clearwire’s proposal that EBS or BRS lessees with less than three years remaining on a lease term that do not possess an assured right of renewal should be exempt from cost-sharing obligations. This minor aspect of Clearwire’s proposal was suggested for the benefit of lessees that have older lease agreements and may not desire renewal or may lose future leasing rights to competitors. This proposal is not critical for Clearwire’s purposes, and Clearwire withdraws this aspect of its proposal.

⁴ 47 C.F.R. § 27.1233(c) (“BRS licensees must pay their own transition costs. BRS licensees in the LBS or UBS must reimburse the proponent(s) a pro rata share of the cost of transitioning the facilities they use to provide commercial service, either directly or through a lease agreement with an EBS licensee.”).

reimbursements are made; and (6) how payment disputes are resolved. None of these elements is clearly set forth in the existing cost-sharing rule. In addition, considerable dispute exists among commenters about the proper trigger for invoking cost-sharing obligations among licensees. The disagreement was sparked, in part, because the existing cost-sharing rule is ambiguous as to when transitioned licensees are obligated to reimburse the proponent. A clear Commission directive regarding the timing of reimbursements is critical to ensuring rapid spectrum transitions and wireless broadband deployments.

The cost-sharing rule set forth in Section 27.1233(c) directs licensees to reimburse proponents a pro rata share of the cost of transitioning “facilities”⁵ that they use to provide commercial service, either directly or through a lease agreement with an EBS licensee. The ambiguity of when reimbursement obligations arise is reinforced by commenters’ starkly differing interpretations. Clearwire concludes that the rule does not require launch of commercial service before reimbursements are due. For example, the rules governing frequency transitions, Sections 27.1231 through 27.1235, apply only to transitions initiated by January 10, 2008.⁶ Accordingly, one can infer that the cost-sharing rule in Section 27.1233 is applicable only during the transition period, and that reimbursements must be made in connection with transitions, not later commercial launch. Nextel, on the other hand, asserts that Section 27.1233(c) requires “only operational commercial carriers” to reimburse EBS/BRS proponents.⁷ WCAI similarly interprets the rule as barring proponents from recovering transition-related costs until after “subsequent commercial use” of the transitioned band.⁸

Nextel, however, agrees with Clearwire that a free rider problem may be caused by requiring a first-moving commercial licensee to carry transition expenses on its books until a later entrant commences commercial operations, and that the problem may warrant regulatory relief by the

⁵ Clearwire assumes the Commission meant “licenses” instead of “facilities,” since licenses are used directly or through lease agreements, not facilities.

⁶ 47 C.F.R. § 27.1231(b).

⁷ Nextel Opposition at 9.

⁸ WCAI Opposition at 17.

Commission.⁹ Nextel also concurs that “delaying reimbursements creates incentives for licensees to delay deploying commercial services to the public in the hope that some other licensee incurs the costs of transition first.”¹⁰

Clearwire strongly urges the Commission to clarify its cost-sharing rule to require reimbursement after all spectrum in a Basic Trading Area (“BTA”) is transitioned (excluding spectrum that is subject to a transition waiver or “opt-out”) and a post-transition notification is filed with the Commission. After these conditions are met, a proponent may invoice transitioned licensees for each licensee’s pro rata share of transition costs. The Commission should reject other commenters’ assertions that a proponent is not entitled to reimbursement until after commercial launch of transitioned EBS/BRS spectrum,¹¹ an event that may not occur for 10 years if substantial service demonstrations are not required for a decade as some of these same commenters suggest.¹²

A. EBS/BRS Licensees Immediately Benefit From Spectrum Clearance And Should Reimburse The Proponent After Transition Completion.

Because EBS and BRS licensees will reap immediate benefits after spectrum transitions, no delay in reimbursing proponents is warranted. Benefits include the possession of more valuable, flexible spectrum with deinterleaved channels that licensees can immediately use to deploy fixed or mobile services. Transitioned licensees also directly benefit from the proponent’s satisfaction of the licensee’s transition obligation, because they are spared the cost and obligation of self-transitioning for license preservation. In view of these immediate benefits, Clearwire’s proposal to require reimbursements after completion of a transition is justified.

⁹ Nextel Opposition at 10. WCA, NIA and CTN also advocated in the *White Paper* that the Commission can and should take steps to avoid imposing unreasonable expenses on “first movers” and minimize the potential for “free riders.” WCAI, Catholic Television Network (“CTN”), National ITFS Association (“NIA”), *Proposal for Revising the MDS and ITFS Regulatory Regime*, at App. B, p. 28, WT Docket 03-66 (filed Oct. 7, 2002) (“*White Paper*”).

¹⁰ Nextel Opposition at 9.

¹¹ WCAI Opposition at 17-19; BellSouth Opposition at 22; Sprint Opposition at 11-14.

¹² See, e.g., BellSouth Comments to *Further Notice* at 13-14; CTN/NIA Comments to *Further Notice* at 8; Nextel Comments to *Further Notice* at 3-4; Sprint Comments to *Further Notice* at 9-10; WCAI Comments to *Further Notice* at 16-17 (all filed Jan. 10, 2005).

In order to address the free rider problem and incent licensees to transition spectrum rapidly, Clearwire proposed that proponents should be entitled to submit invoices for transition-cost-sharing after completing a market transition and filing a post-transition notification. Cost-sharing reimbursements would be due 30 days after invoice.¹³ Presumably, proponents would not send invoices until after receiving cost documentation from suppliers and vendors and ascertaining the full and accurate costs of the transition.¹⁴ Nextel incorrectly characterized Clearwire's proposal as barring proponents from seeking reimbursement if invoices are not sent within 30 days after filing the post-transition notification.¹⁵ Clearwire never suggested such a bar, and Nextel's misstatement of Clearwire's proposal should be disregarded.

Sprint asserts that requiring reimbursement prior to service deployment could disrupt the plans and deployment schedules of licensees in other markets by reducing overall financial resources.¹⁶ If all licensees reimburse proponents after market transitions, however, the reciprocal nature of the reimbursement obligation (i.e., a proponent in one market may be a reimbursing licensee in another market) should address Sprint's concern and ensure that all proponents are supported and timely paid for transition-related costs.

Sprint and WCAI also note that proponents should bear all transition costs until other licensees launch service because proponents gain the added commercial benefit of being first-in-time to offer service.¹⁷ The benefits to being first-in-time, however, are offset by disadvantages that proponents suffer by financing the entire spectrum transition for other licensees, without interest,

¹³ Clearwire Petition for Reconsideration at 7.

¹⁴ See Nextel Opposition at 9.

¹⁵ *Id.* at 8-9. Nextel mischaracterizes Clearwire's cost-sharing proposal in a number of respects. Clearwire did not propose a bar on reimbursements or mandatory arbitration of transition expenses that exceed an arbitrary monetary threshold, such as \$250,000. Nextel Opposition at 7. Rather, Clearwire suggested that if there is any concern about the reasonableness of transition-related costs (for example, if costs exceed \$250,000) or so-called "gold-plating" of transition-related costs, then an independent third-party appraisal may be useful. Using an experienced clearinghouse for this purpose, rather than a randomly chosen arbitrator also will assist the industry in efficiently and quickly resolving cost-sharing disputes.

¹⁶ Sprint Opposition at 12.

¹⁷ *Id.* at 11-14, WCAI Opposition at 18.

and incurring additional transition-related costs for which reimbursement cannot be immediately sought, if ever. Additional costs include those incurred transitioning EBS spectrum that is never leased or used for commercial purposes. These licensees are exempt from cost-sharing reimbursements which proponents must finance. Proposals that require proponents to indefinitely bear all transition costs until other licensees launch commercial service are anti-competitive, financially punitive, and will inevitably result in transition of fewer markets at a slower pace. This result is contrary to the Commission's goal of encouraging rapid wireless broadband deployment in this proceeding and underscores the need for the Commission to clarify the cost-sharing rules in a manner that ensures rapid transitions and advances competition.¹⁸

B. The PCS Cost-Sharing Rules Do Not Require Commercial Launch Before Reimbursement.

Sprint and WCAI incorrectly rely on the PCS cost-sharing rules for the proposition that EBS/BRS reimbursements should be delayed until after “commercial deployment” or “service deployment,” or after a “licensee is prepared to inaugurate [sic] its commercial service.”¹⁹ The Commission expressly rejected as too difficult and burdensome a requirement that either the Commission or the PCIA Microwave Clearinghouse (“Clearinghouse”) ascertain a commercial launch date in order to determine when cost-sharing reimbursements are owed.²⁰ Instead, the PCS

¹⁸ Sprint asserts that proponents will not bear the costs of transition “indefinitely.” Sprint Opposition at 12-13. However, if reimbursement is not required until commercial launch, licensees are allowed 10 years to demonstrate substantial service, and the demonstration is not made, those channels/licenses will be auctioned and reimbursement of the proponent will be further delayed until sometime after an auction. This could result in an indefinite collection delay for the proponent. For this reason, among others, the Commission should not impose a “sunset” to the reimbursement obligation. The obligation should be included as a condition that attaches to each license until paid.

¹⁹ Sprint Opposition at 13; WCAI Opposition at 18.

²⁰ WCAI's partial quotation indicating the Commission's agreement that PCS cost-sharing obligations are triggered upon commencing commercial operations is misleading. WCAI Opposition at 18 n.53 (The correct citation for WCAI's partial quote is paragraph 39 of Appendix A of the *PCS Relocation Order, Amendment of the Commission's Rules Regarding A Plan for Sharing the Costs of Microwave Relocation*, 11 FCC Rcd 8825 (1996) (“*PCS Relocation Order*)). WCAI notably excludes the Commission's conclusion that cost-reimbursement is *not* triggered by starting commercial operations, but rather is triggered by the filing of a PCN so that the Clearinghouse need not try to determine if a licensee is providing service. See *PCS Relocation Order*, 11 FCC Rcd at 8896. Similarly, Sprint's statement that the Commission does not require reimbursements until

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cost-sharing scheme relies upon a PCS licensee’s prior coordination notification (“PCN”), which proposes a location for future deployment of a fixed base station, to determine if any reimbursement obligation is owed.²¹ A PCN followed by a proximity test is necessary to ascertain whether a PCS licensee will benefit from prior spectrum clearance and whether a cost-sharing obligation is triggered,²² but no prior tests to establish transition “benefits” or cost-sharing obligations are required for EBS or BRS licensees.

PCS licensees that file PCNs may never launch commercial service, yet the reimbursement obligation is calculated and owed following receipt of the PCN and completion of the proximity test. Accordingly, the PCS cost-sharing scheme offers no justification to delay reimbursement. Launch of commercial service is not a trigger for PCS cost-sharing obligations and is not a justification to delay reimbursement of transition-related EBS/BRS costs.

II. THE RECORD DEMONSTRATES INDUSTRY CONSENSUS ON A NUMBER OF FINDINGS AND PROPOSALS.

The record demonstrates industry consensus on many proposals supported by Clearwire for a more detailed cost-sharing mechanism for transition-related expenses. A number of commenters observed that the current cost-sharing rules likely will delay transition by deterring potential proponents from coming forward.²³ Commenters also agree that: (1) the Commission should establish a more explicit mechanism for sharing transition costs;²⁴ (2) all commercial operators should share transition expenses in an equitable and timely manner;²⁵ (3) proponents should be able to seek reimbursement of all transition-related expenses from other market licensees on a pro rata

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after service deployment is inaccurate. Sprint Opposition at 13 n.42. As noted above, cost-reimbursement is triggered by filing a PCN and does not require commercial operations.

²¹ 47 C.F.R. § 24.249.

²² Prior frequency coordination notices are not required for commercial launch of EBS and BRS spectrum under a geographic licensing scheme.

²³ Clearwire Petition for Reconsideration at 2; NY3G Opposition at 5-6.

²⁴ Clearwire Petition for Reconsideration at 3; WCAI Opposition at 17; Nextel Opposition at 4; Sprint Opposition at 11-14; NY3G Opposition at 5-6.

²⁵ Clearwire Petition for Reconsideration at 6-8; Nextel Opposition at 4.

basis;²⁶ (4) cost-sharing obligations should be measured on a MHz/pop basis;²⁷ and (5) cost-sharing is most efficiently administered by an experienced and neutral clearinghouse.²⁸ No commenters objected to Clearwire's proposal that cost-sharing obligations remain attached to each transitioned license until the obligation is paid.²⁹

There also is record support for the Commission to adopt the following proposals:

- The Commission should reject proposals to prohibit or limit two-way use prior to transitioning to the new band plan.³⁰
- The Commission should reconsider its decision to introduce new unlicensed uses into the 2.5 GHz band.³¹
- Both EBS and BRS interests agree that broad D/U ratio-based interference protection requirements are unnecessary to resolve documented interference.³²
- The Commission should reject Nextel's proposal to designate the party with the most spectrum holdings in a BTA as the proponent.³³

²⁶ Clearwire Petition for Reconsideration at 3-5; NY3G Opposition at 5-6.

²⁷ Nextel Petition for Reconsideration at 21-22; WCAI Petition for Reconsideration at 25.

²⁸ Clearwire Petition for Reconsideration at 7, 9; ITFS Alliance Opposition at 10. The WCAI previously stated that if the Commission requires a clearinghouse to facilitate the proposed reimbursement program, they are prepared to serve that function. *White Paper* at App. B, p. 29.

²⁹ Clearwire Petition for Reconsideration at 4.

³⁰ Many parties agree that the Commission should reject the proposals of the ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance, Inc. ("ITFS Alliance") and CTN/NIA to prohibit or limit two-way use in the 2.5 GHz band prior to transitioning to the new band plan. WCAI argues that this risk of interference is overstated and prohibiting two-way operations would unduly delay the deployment of new services. WCAI Opposition at 15. Nextel argues that licensees should retain flexibility for running trials and deployments of two-way services prior to transition and that cooperation among licensees, rather than regulatory fiat, best serves the interest of all licensees in the band. Nextel Opposition at 27-28. HITN, which has already rolled out two-way service without interference, and SpeedNet agree that the potential for interference is minimal, and would be short-lived in any event. HITN Opposition at 6-7; SpeedNet Opposition at 2. *See also* C&W Enterprises Opposition at 2; NY3G Opposition at 9; Luxon Opposition at 6-7.

³¹ BellSouth Opposition at 23-24; Luxon Wireless Opposition at 9; NY3G Opposition at 3; WCAI Opposition at 3; Nextel Petition for Reconsideration at 22-23; Grand Wireless Petition for Reconsideration at 2.

³² ITFS Alliance Opposition at 11-15; NY3G Opposition at 6; Reply Comments of the George Mason University Instructional Foundation, Inc. In Partial Support of Joint Comments and Petition for Reconsideration at 3 (filed Feb. 8, 2005).

- The Commission should retain the rule that allows licensees to exceed signal strength limits at the GSA boundary, absent operations in an adjacent BTA.³⁴

Clearwire's approach to interference abatement as outlined in Section I of its Opposition also is supported by a number of commenters. Commenters agree with Clearwire that flexibility, documented interference and licensee cooperation are preferable to regulatory fiat³⁵ or adoption of additional technical rules for problems that do not exist. Nextel agrees that the Commission should not erect new barriers to deploying services in the band and should rely instead on longstanding, cooperative industry practices to govern potential interference rather than overly intrusive regulatory requirements.³⁶ WCAI similarly advocates that: (1) licensees deploying new or modified facilities only should be responsible to address actual interference; (2) predictive models should not be included in the new rules; and (3) the rules must assure that those deploying services prior to transitions are protected against frivolous interference allegations.³⁷ Sprint also agrees that the Commission need not develop solutions for problems that do not exist.³⁸

Accordingly, the record supports Commission adoption of Clearwire's proposals to: (1) retain the flexibility in the rule governing signal strength limits to allow licensees to exceed signal strengths at GSA boundaries in the absence of adjacent market operations and in the absence of actual interference;³⁹ (2) retain the out-of-band emissions rule which requires documented interference and mutual licensee cooperation before more restrictive masks are required;⁴⁰ and (3) reject proposals to amend the antenna height benchmarking rule to require the sharing of

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³³ SBC Opposition at 9 (Nextel's proposal is "clearly designed to allow Nextel, with its large number of BRS licenses and concomitant EBS leases, to become the driving force in any transition" without consideration of the interests of other licensees).

³⁴ Independent MMDS Licensee Coalition Opposition at 2-4.

³⁵ Nextel Opposition at 27-28.

³⁶ *Id.* at i-ii, 27-28.

³⁷ WCAI Opposition at 16.

³⁸ Sprint Opposition at 14.

³⁹ Clearwire Opposition at 9-10; 47 C.F.R. § 27.55(a)(4).

⁴⁰ Clearwire Opposition at 3-5; 47 C.F.R. § 27.53.

competitive information upon request, and alteration of base station antenna heights based upon “simulated” interference studies.⁴¹ To remove any doubt, the Commission must clarify Section 27.1221 to require that base station antenna heights need not be altered in the absence of documented interference from an adjacent market licensee.⁴²

III. CONCLUSION.

Clearwire has consistently advocated EBS/BRS service rules that will assist rapid spectrum transitions and wireless broadband service deployments. The Commission, however, must clarify its cost-sharing rules, specifically the rule governing the timing of cost-sharing reimbursements, to ensure rapid transitions, advance competition, prevent free riders, and equitably and timely apportion transition-related costs among all transitioned licensees. Anti-competitive proposals to delay reimbursements to proponents until commercial launch, which could take 10 years or more, will discourage potential proponents from assuming transition responsibility, and will result in slower and fewer transitions. Given the immediate transition benefits to EBS and BRS licensees, the Commission should reject anti-competitive efforts to delay cost-sharing reimbursement obligations.

Respectfully submitted,

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⁴¹ Clearwire Opposition at 6-7; 47 C.F.R. § 27.1221.

⁴² Clearwire Opposition at 7; 47 C.F.R. § 27.1221. Clearwire could support the cure periods set forth in WCAI’s proposed antenna height benchmarking rule (contained in its reply) only if the rule requires documented interference and sharing of base station information through an impartial clearinghouse.

Attachment A

Sec. 27.1233(c) Cost-sharing requirements for EBS and BRS.

Each transitioned EBS and BRS licensee in a BTA or in an adjacent BTA must reimburse the proponent of the transition, either directly or indirectly, for the licensee's pro rata share of transition costs. EBS licensees that use EBS spectrum solely for educational purposes are exempt from cost-sharing obligations, but only during the period of exclusive educational use.

(1) Reimbursement formula.

Each licensee's pro rata reimbursement obligation (including exempt EBS licensees), shall be calculated by apportioning the total costs of the transition, as specified in Sec. 27.1233(c)(2), among all transitioned licensees based upon each licensee's authorized spectrum in MHz, and the population contained in each licensee's GSA. The population assigned to each licensed channel may vary if the size of the GSA varies by licensed channel. The population within the BTA or GSA shall be calculated using the 2000 census block data provided by the United States Census Bureau.

(2) Reimbursable transition costs.

All reasonable, documented transition-related costs and expenses are compensable and shall include [Please see Sprint's "Transition Costing Categories" submitted with its reply for a list of suggested compensable costs. Clearwire is studying the list for completeness.]. All other transition-related costs shall be reimbursed only upon a specific showing that the costs were reasonable and necessary for the transition.

(3) Triggering a reimbursement obligation.

An EBS or BRS licensee's reimbursement obligation to the proponent shall be triggered upon satisfaction of the following:

- (i) completing transition of all spectrum in the BTA except for spectrum that is subject to a waiver or an opt-out; and
- (ii) filing the post-transition notification with the Commission pursuant to Sec. 27.1235.

(4) Payment.

- (i) After a reimbursement obligation is triggered pursuant to Section 27.1233(c)(3), the proponent shall be entitled to submit a detailed invoice to each transitioned licensee containing an itemization of the total transition-related costs pursuant to Sec. 27.1233(c)(2), and a calculation of the licensee's reimbursement obligation pursuant to Sec. 27.1233(c)(1).

- (ii) Each EBS or BRS licensee must either pay the proponent, or cause its spectrum lessee to pay the proponent, within 30 days of the licensee's receipt of the invoice.
- (iii) Auction winners shall pay proponents for outstanding pro-rata cost-sharing obligations, if any, associated with acquired spectrum after license grant and within 30 days of invoice from the proponent, provided that the post-transition notification was filed before license grant. If the post-transition notification was not on file at the time of license grant, reimbursement shall be due in accordance with Sec. 27.1233(c)(4)(i) and (ii).

(5) Miscellaneous.

- (i) Proponents that transition EBS or BRS spectrum in adjacent BTAs are entitled to seek reimbursement of compensable costs pursuant to Sec. 27.1233(c)(2) from the transitioned EBS or BRS licensee in the adjacent BTA, on the same terms and using the same triggers as apply to EBS and BRS licensees in the proponent's own BTA (see Sec. 27.1233(c)(3), (4)). Alternatively, if a proponent of the adjacent BTA is identified at the time a reimbursement invoice is submitted pursuant to Sec. 27.1233(c)(4)(i), the proponent of the completed BTA transition may invoice the proponent of the adjacent BTA directly. In either case, payment is due within 30 days of invoice receipt.
- (ii) Commission approval of the following shall be conditioned upon satisfaction of the reimbursement obligation to the proponent in the relevant BTA: (A) assignments or transfers of EBS or BRS spectrum; (B) requests to partition or disaggregate EBS or BRS spectrum; or (C) license renewal applications.

(6) Administration of the Cost-Sharing Plan.

The Wireless Telecommunications Bureau, under delegated authority, will select an entity to operate as a neutral, not-for-profit clearinghouse for the purpose of resolving any disputes that arise with regard to payment of transition-related costs. All cost-sharing disputes must be brought, in the first instance, to the clearinghouse for resolution. If the Clearinghouse cannot resolve the dispute, it shall refer the matter to the Commission. Clearinghouse expenses for resolving cost-sharing disputes shall be borne by the party initiating the dispute, unless the clearinghouse resolves the dispute in favor of the initiating party.

CERTIFICATE OF SERVICE

I, Theresa Rollins, certify that I have on this 9th day of March, 2005, had copies of the foregoing **CONSOLIDATED REPLY TO OPPOSITIONS TO PETITIONS FOR RECONSIDERATION** delivered to the following via U.S. mail or electronic mail(*):

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