Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions Widelity Report and Catalog of Potential Expenses and Estimated Costs	)	GN Docket No. 12-268

To: The Media Bureau

COMMENTS OF
AMERICAN TOWER CORPORATION

American Tower Corporation ("American Tower") hereby submits its initial comments in response to the March 20, 2014 Public Notice issued by the Media Bureau.[1] The Public Notice seeks comment on the types of costs broadcasters and MVPDs are likely to incur from channel reassignments arising from the proposed Incentive Auction, how to determine whether such costs are "reasonable" for purposes of reimbursement under the statute, and on two documents prepared by Widelity Inc.: "Response to the Federal Communications Commission for the Broadcaster Transition Study Solicitation" ("Widelity Report") and "Catalog of Potential Expenses and Estimated Costs."

Founded in 1995, American Tower is a leading independent owner, operator and developer of wireless and broadcast communications real estate, including wireless towers, broadcast towers and Distributed Antenna System ("DAS") networks. American Tower's primary business is leasing antenna space on multiple-tenant communications sites to wireless

[1] *Media Bureau Seeks Comment on Widelity Report and Catalog of Potential Expenses and Estimated Costs*, GN Docket No. 12-268, Public Notice, DA 14-389 (MB rel. Mar. 20, 2014).

service providers, radio and television broadcast companies, wireless data providers, government agencies and municipalities, and tenants in a number of other industries. In addition to the communications sites in our portfolio, American Tower manages rooftop and communications sites for property owners. Our tower portfolio consists of approximately 27,000 towers in the U.S., both those that we own and those that we operate pursuant to long-term lease arrangements. American Tower offers a wide array of site-related services domestically, including site acquisition, zoning and permitting services and structural analysis services. These services are a part of the wide array of services that American Tower provides to meet its customers' needs, whether this is their first lease or if they are adding additional equipment.

As a tower company with a nationwide portfolio, many of American Tower's existing and new customers will be affected by the channel changes that will result from the Incentive Auction. In addition, given our nationwide focus and our experience with tower siting, construction and facilities installation, American Tower brings a unique perspective concerning many of the issues to be addressed in this proceeding.

DISCUSSION

American Tower commends the Commission for engaging Widelity to aid the Commission in understanding the complex process and the variety of costs associated with the post-incentive auction transition. The Widelity Report provides a good overview of the relocation process, and the updated Catalog of Potential Expenses is a step forward in terms of compiling the additional reimbursement information required to further define the process and the costs.

The success of the re-packing process will hinge on the FCC establishing, in advance of the auction, clear guidelines concerning permissible costs. The overarching goal of the FCC and industry in this proceeding should be expedite the transition without causing financial harm to both those directly or indirectly involved in the transition. As is discussed below, in an environment where multiple parties can own the infrastructure a single broadcaster utilizes, clear 'rules of the road' are imperative.

A. Pre-Planning Costs

Section 4.1 of the Widelity Report briefly addresses the need for pre-planning even before a station receives its new channel assignment. Such pre-planning will be critical if the transition to new channel assignments is to be implemented in the desired three-year period. For that reason, American Tower again urges the Federal Communications Commission ("FCC") to expressly authorize the reimbursement of "pre-implementation eligible expenses," that is, expenses as specified in the Catalog of Eligible Expenses for tasks occurring prior to the reimbursement eligibility period.[2] Specifically, to speed up the implementation process, there are a number of time-consuming soft costs that broadcasters would implement and pay for now, if there are assurances from the FCC that any work performed within the guidelines of the Catalog of Eligible Expenses during the pre-implementation period will be eligible for reimbursement.

The Widelity Report makes evident that the re-packing transition will impose a significant strain on the tower industry's resources in terms of personnel and equipment. For example, Section 15 of the Widelity Report explains that "With the impact of Rev. G . . . structural engineers will have to review all towers that will require the addition or change of equipment as a result of the post-repacking transition process. This will have to occur prior to any designs or plans being finalized and implemented." The Widelity Report also notes that antenna suppliers all stressed the need to "smooth out" the ordering process. If the process of

[2] Comments of American Tower Corporation, GN Docket No. 12-268, at 2-4 (Nov. 4, 2013).

ordering equipment and materials is orderly, manufacturers can effectively schedule production, delivery, and installation of antennas. If the orders are bunched where everyone is trying to acquire the same equipment at the same time, there will be delays and difficulty scheduling the work.[3]

Authorized preliminary costs could include but are not limited to:

- Baseline tower structural analyses to current building code with current loading
- Structural rigging plans
- Zoning and permit application
- RF engineering studies on existing equipment repurposing
- RF engineering studies for single frequency or broadband antenna designs
- Mechanical infrastructure load study (HVAC, electrical, building loads, etc.).

In addition to the reimbursement for pre-implementation soft costs, there may be other situations where, prior to the Incentive Auction, hard costs such as tower and building construction or installation of certain RF equipment can be confirmed eligible for reimbursement if the station needs to be repacked. Such costs could include but are not limited to:

- New tower construction
- Major tower modifications
- Building upgrades
- Mechanical upgrades
- Broadband antenna installation (single or multiple station effort).

[3] Widelity Report, Section 19.5, page 30.

B. Reimbursement of Third Party Expenses Required by Re-packing

Another important but unaddressed aspect of the re-packing process is the methodology for reimbursing costs incurred by non-repacked third parties during the re-packing process. The paradigm of each TV licensee owning its own tower, antenna, and other infrastructure is not always the case. The Widelity Report indicates that 15% to 20% of stations lease tower space for their antennas from other broadcasters (including stations in the same market) or an independent third party such as American Tower.[4] This estimate may be understated. With American Tower's recent tower acquisitions, the percentage of full power TV stations on its facilities has jumped from 11% to 15%, not including Class A TV stations. The percentage of Class A stations that lease space is high since many Class A stations are side-mounted on structures the stations do not own.

In many of these cases, a non-licensee like American Tower not only will own the tower used by multiple TV stations but also the associated master antenna, transmission lines, combiners and filters. Further, there are numerous instances in which multiple players own different segments of the infrastructure utilized by a given broadcaster.

Further complicating transition matters is the fact that while some of the stations on a single tower and master antenna may need to change channels, others will not. Yet all inevitably will be economically affected. There are two main scenarios in which this will occur. First, if multiple TV broadcasters share a master antenna system and not all will be re-packed, all of the broadcasters still may incur costs. This is particularly true if the master antenna system needs major modifications or replacement to accommodate the repacked licensee(s), as the non-repacked stations are likely to require new RF components. Second, non-TV licensees on an affected tower may incur costs to accommodate the changes required for the re-packing process.

[4] Widelity Report, Section 20, page 31.

The overarching goal of the FCC and industry in this proceeding should be to timely and efficiently complete the re-packing process without causing financial harm to both those directly involved in the transition as well as others receiving no benefit but potentially incurring collateral impact costs related to the transition requirements. Therefore, before the auction commences the Commission should clarify its procedures for reimbursing stations and third parties for the costs associated with re-packing. Without such guidance, the implementation process could bog down as multiple parties attempt to define their role and rights in the transition. Further, a broadcaster not directly subjected to re-packing or a third party owner of infrastructure that would need to expend resources to accommodate a re-packed station cannot be expected to disrupt its operations or expend those resources unless it has assurances there is a mechanism in place for it to be fully, fairly and promptly compensated. If such reimbursement rules and procedures are not defined upfront, stations and third party infrastructure providers will be compelled to spend an inordinate amount of time in negotiations or legal efforts in order to define each party's obligations and rights. In other words, any added layer of reimbursement uncertainty will, unfortunately, delay the re-pack schedule and the ultimate build-out schedules of re-packed TV stations.

Questions that need to be addressed include whether expenses eligible under the Widelity Catalog will be pre-paid and, if not, how prompt payment will be assured. In particular, before a non-licensee such as a third-party tower owner incurs costs to implement the re-packing, it will require assurance that it will be reimbursed for its reasonable expenses. Related questions include: a) whether reimbursement needs to flow through the broadcast licensee even when the infrastructure involved is owned by a third party; and b) what costs incurred by a licensee that is not subject to the repack will be reimbursed.

American Tower does not suggest that all these questions associated with the re-packing reimbursement process will be resolved in response to the March 20 Public Notice. American Tower recommends, however, that the FCC continue and extend its outreach to industry to identify the pertinent questions and establish forums to allow interested parties to discuss potential solutions. However, it is essential that these issues should be resolved <u>before</u> the Incentive Auction commences if the re-pack effort is to succeed.

Respectfully submitted,

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