

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Updates to Catalog of Reimbursement Expenses)	MB Docket No. 16-306
)	GN Docket No. 12-268
)	

To: Secretary, Federal Communications Commission
Attention: Media Bureau

**COMMENTS OF THE PUBLIC BROADCASTING SERVICE,
AMERICA’S PUBLIC TELEVISION STATIONS, AND
THE CORPORATION FOR PUBLIC BROADCASTING**

The Public Broadcasting Service (“PBS”)¹, America’s Public Television Stations (“APTS”)², and the Corporation for Public Broadcasting (“CPB”)³ (collectively, “PTV”) submit these comments in response to the Public Notice in MB Docket No. 16-306 and GN Docket No. 12-268 titled *Media Bureau Seeks Comment on Updates to Catalog of Reimbursement Expenses* (released October 13, 2016) (“Public Notice”).

¹ PBS, with its 349 member stations, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 109 million people through television and over 28 million people online, inviting them to experience the worlds of science, history, nature and public affairs, to hear diverse viewpoints, and to take front row seats to world-class drama and performances.

² APTS is a non-profit organization whose membership comprises the licensees of nearly all the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American people.

³ CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

Introduction

PTV recognizes that the Catalog of Potential Expenses and Estimated Costs (the “Catalog”) is intended as a guide and not as a definitive list of all reimbursable expenses for the post-incentive auction transition process. PTV appreciates the Media Bureau’s efforts to develop the Catalog and make other important determinations regarding eligible costs and the reimbursement process. Given what PTV and other broadcasters now know about the scope of the Commission’s proposal for a phased-in transition (including the number of stations to be transitioned even at the 84 MHz clearing target), reimbursement-eligible costs, and the reimbursement process overall, PTV has several additional suggestions for the Catalog that would greatly improve the channel transition (and related reimbursement process) for public television stations and the viewers that rely on essential public broadcasting services.

As the Widelity Report recognized, “[n]oncommercial stations ... face specific funding and governance issues [that] will add approval variability to the process” and “noncommercial television broadcast stations (such as PBS affiliates) face unique challenges that in many cases are far removed from the ‘mainstream’ thought process for the procurement and installation of equipment required for the post-repacking transition process.”⁴ Importantly, the Widelity Report also recognized that noncommercial stations “may not have the in-house capabilities to manage the equipment procurement process, RFP creation, legal agreements, state procurement processes, and engineering.”⁵ These are very astute points about the different circumstances in which noncommercial broadcast stations are generally situated and which will impact the repacking process.

⁴ Public Notice, *Media Bureau Seeks Comment on Widelity Report and Catalog of Potential Expenses and Estimated Costs*, GN Docket 12-268, DA 14-389, at 10, 33–34 (rel. March 20, 2014).

⁵ *Id.*

The stations across the public television system are diverse, in terms of governance and available staffing and funding. While some public television licensees may operate multiple transmitters (in statewide or regional networks), and many others operate a single transmitter – they share a common characteristic of operating with limited staff and resources. Thus, stations in the public television community do not have the in-house engineering or legal resources of TV group owners (and certainly not the in-house engineering and legal teams of the largest TV group owners and network O&Os) and, therefore, they must rely heavily on outside vendors to help advise on, prepare for, and implement channel transitions and related reimbursements. At present, the revised Catalog does not account for any outside professional vendor advice, consultation or assistance with the channel transition other than the preparation of construction permit applications and STAs. In order to ensure a smooth and timely transition for public TV stations, particularly during the critical 90-day period for designing new TV facilities and preparing initial cost estimates, the Catalog should recognize that public broadcasters need to rely on (and be reimbursed for) appropriate outside vendor resources by adding line items to the revised Catalog for several critical transition planning and implementation tasks.

PTV urges the Media Bureau to supplement the Catalog with additional line item expenses that most public television stations being repacked will incur, as well as to incorporate several clarifications to the revised Catalog, which were detailed in PTV's prior comments on November 4, 2013, May 6, 2014, and November 26, 2014, as discussed below.

Additional Categories to be Added to the Revised Catalog

PTV respectfully requests that the following additional line items be added to the Catalog:

Engineering and Legal Costs for Initial Consultations and Advice for Stations Transitioning to New Channels. Given the complexities of the proposed phased-in transition, it is critical that public TV stations are able to seek consultation and receive advice as soon as possible after learning of their new channel assignments. This advice is beyond the scope of just preparing a particular construction permit application – it relates to overall transition planning, steps and timing, and may include advice about phase timing, the “priority” window, procurement, state budgets, consultations with state or university officials, prospects for changing phases, plans for interim facilities, and avoiding public TV unserved areas, among others.

Engineering and Legal Costs for Preparing and Filing the Initial Cost Estimates on Form 2100, Schedule 399. Given that many public TV stations do not have sufficient internal engineering and legal resources, most (if not all) public TV stations will seek assistance from their consulting engineers and counsel on the preparation and filing of Form 2100, Schedule 399. Many stations may be reluctant to file this very important Form (on which their reimbursement allocation and the entire reimbursement process will be based) without first consulting with their engineers and lawyers. This is a separate filing from the construction permit application and from the advice discussed in the point above, so it therefore requires separate consideration.

Engineering and Legal Costs related to Ongoing Phased-In Transition Matters, including Consumer Education Requirements, Periodic Status Reports, and Updates.

Based on public television’s experiences with the DTV transition and the unique

individualized structure of the public television system, public television stations will need ongoing engineering and legal advice as the phased-in transition progresses, including advice related to consumer education requirements as well as any periodic status reports or updates that the FCC will require as part of the phased-in transition. The present Revised Catalog does not account for this assistance and these costs.

Engineering and Legal Costs of Modifications of Construction Permits, as the Phased-In Transition Progresses. Because of the number of stations moving to new channels at various points during the 36-month transition period and the constrained resources for the 90-day period which are necessary to plan, design, and file for all broadcast facilities moving to new channels, the phased-in transition is going to require modifications to construction permits, alternative facility plans (as an iterative process while the phases progress) and perhaps even some extensions to construction periods due to circumstances outside the stations' control. These modifications, alternate facility plans, and possible extensions should be planned for and addressed as line items in the revised Catalog.

Non-TV Station Tenants on Towers Affected by Channel Transition. The revised Catalog should address the issue of costs for non-TV facilities that are on towers (or nearby towers) affected by channel transitions and that must relocate, either permanently or temporarily, or cease operations due to the transition. While PTV understands that these affected entities (whether FM broadcasters, public safety licensees, or others) are not eligible for reimbursement from the TV Broadcaster Relocation Fund, the Media Bureau needs to provide additional clarity on how such situations will be addressed and to gather information about other entities that will be impacted by any given television station's transition. For instance, whether and how financial contractual

obligations of repacked TV tower owners or lessees to non-TV tenants or lessors will be covered. This is especially important for public television stations that are tower owners or potentially affected tenants.

As discussed above, PTV believes that the channel transition will proceed with better expediency and overall planning by individual public TV stations if these line items are added to the revised Catalog and if the Media Bureau provides greater clarity on the treatment of expenses and the transition process for multi-tenant towers.

Revisiting Prior PTV Suggestions for the Revised Catalog

In addition, several of PTV's prior suggestions related to the Catalog and reimbursable expenses should be revisited and adopted.

For instance, PTV suggested in May 2014 that estimated costs in the AM Pattern Disturbance Section for installing or adjusting detuning apparatus should be increased (because they are too low), along with the estimates for the costs related to NEPA Section 106 environmental review and FAA consultants (because they do not appear to account for reasonable costs in the event of a challenge). The revised Catalog does not increase these estimates, but PTV believes that it ought to do so.⁶

Similarly, in November 2013 PTV suggested that the Catalog should explicitly recognize costs that may be required for new backup generators and equipment, increased post-repacking operating costs, the cost of tower elevators for tall towers, and the

⁶ Comments of the Public Broadcasting Service, Corporation for Public Broadcasting, and Association of Public Television Stations, *In the Matter of Widely Report and Catalog of Potential Expenses and Estimated Costs*, GN Docket No. 12-268 (filed May 6, 2014).

potential cost of acquiring or leasing new land for a tower. The new Catalog does not include these items, but PTV believes it should also address these necessary items.⁷

Conclusion

PTV urges the Media Bureau to add to the revised Catalog those categories of expenses that most public television stations will incur for outside vendors due to the limited internal resources of the public broadcasting system, as observed by the Widality Report. PTV also urges the Media Bureau to consider the challenges and treatment of tenants on towers that will have one or more broadcasters affected by the channel transition and that are not eligible for reimbursement themselves. Finally, PTV asks the Media Bureau to revisit PTV's prior suggestions for clarifications and additions to the revised Catalog.

⁷ Comments of the Association of Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service, *In the Matter of Catalog of Eligible Expenses and Other Issues Related to the Reimbursement of Broadcaster Channel Reassignment Costs*, GN Docket No. 12-268 (filed Nov. 4, 2013).

Respectfully submitted,

/s/

William Weber
Vice President, Government Affairs and
Associate General Counsel
Eric J. Wolf
Vice President, Technology Strategy and
Planning
Thomas Rosen
Assistant General Counsel
PUBLIC BROADCASTING SERVICE
2100 Crystal Drive
Arlington, VA 22202

/s/

Lonna Thompson
Executive Vice President, Chief Operating
Officer, and General Counsel
ASSOCIATION OF PUBLIC TELEVISION
STATIONS
2100 Crystal Drive, Suite 700
Arlington, VA 22202

/s/

Todd D. Gray
Margaret L. Miller
GRAY MILLER PERSH LLP
1200 New Hampshire Ave. NW, Suite 410
Washington, DC 20036

/s/

J. Westwood Smithers, Jr.
Senior Vice President and General
Counsel
CORPORATION FOR PUBLIC BROADCASTING
401 Ninth Street, NW
Washington, DC 20004

Of Counsel

November 14, 2016