PUBLIC NOTICE

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INITIAL ALLOCATION FOR FM STATIONS FROM TV BROADCASTER RELOCATION FUND AND REPORT ON THE STATUS OF THE POST-INCENTIVE AUCTION TRANSITION, THE REIMBURSEMENT PROGRAM, AND THE CONSUMER EDUCATION PROGRAM

MB Docket No. 16-306
GN Docket No. 12-268

1. The Incentive Auction Task Force and Media Bureau (Bureau) announce an initial allocation from the TV Broadcaster Relocation Fund (the Reimbursement Fund or Fund) for FM stations. This allocation enables us to commence reimbursement of approved invoices submitted by eligible FM stations.

2. We also report on the status of the post-Incentive Auction broadcast transition, the reimbursement program for full power and Class A television stations and Multichannel Video Programming Distributors (MVPDs), and consumer education efforts. The post-Incentive Auction broadcast transition is progressing as designed and on schedule. Significant progress has been made since our last report on February 11, 2019, toward the Commission's goal of transitioning certain TV broadcasters to new channel assignments and clearing the 600 MHz band for use by wireless licenses by July 13, 2020.[1]

Background

3. At the close of the Incentive Auction and the beginning of the 39-month transition period on April 13, 2017, there were 987 full power and Class A stations reassigned to new channels as part of the repack.[2] In addition, certain low power TV and TV translator stations (LPTV/translators) were displaced by the rebanding and repacking process. A special displacement filing window in June 2018 provided such stations with an opportunity to select a new channel. We received 2,164 such applications. FM spectrum was not subject to repacking, but some FM stations whose antennas are collocated on or near a tower supporting a repacked television station antenna may be affected if, for example, the FM station antenna must be moved, either temporarily or permanently, to accommodate the television

[1] *See Incentive Auction Task Force and Media Bureau Report on the Status of the Post-Incentive Auction Transition and Reimbursement Program; Announce a Further Allocation from the Relocation Fund; and Announce Procedures for Eligible Entities to Close Out Accounts in the Fund*, Public Notice, 34 FCC Rcd 304 (MB/IATF 2019).

[2] *Incentive Auction Closing and Channel Reassignment Public Notice; The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (IATF, MB, and WTB 2017) (*Closing and Channel Reassignment PN*). This included 30 band-changing winners from the reverse auction and 957 non-winning stations.

station's channel change or if the FM station needs to power down or temporarily cease operating to permit a repacked television broadcaster to modify its facilities.

4. Congress provided $2.75 billion for the Reimbursement Fund in the Spectrum Act and Reimbursement Expansion Act (REA) to reimburse certain costs associated with the post-Incentive Auction transition.[3] The reimbursement program began for full power and Class A TV stations and MVPDs in 2017, and pursuant to the REA has been expanded to include FM stations and LPTV/translator stations.[4] The REA directs that not more than $50 million of the funds appropriated in fiscal year 2018 be used to reimburse FM radio stations, not more than $150 million be used for LPTV/translator stations, and $50 million be used for consumer education. The Commission has determined that it will prioritize payment of full power and Class A television stations and MVPDs over payment of other entities beyond the funds defined in the REA as fiscal year 2018 funds.[5]

5. The reimbursement procedures developed by the Commission to disburse the Reimbursement Fund enable timely processing of reimbursement requests while also assuring that only eligible expenses are paid and that available funds are spread appropriately across all eligible entities. The procedures include engineering and accounting reviews by our Fund Administrator who has extensive experience in television broadcast engineering and federal funds management, and review by Commission staff. We expect that the level of reimbursement requests will increase substantially over the next few months as stations completing their transition submit final invoices and the program begins to reimburse FM stations, LPTV and TV translator stations.

Initial Allocation to Eligible FM Stations

6. FM stations follow a reimbursement process that is substantially similar to the process that has been used for full power and Class A stations and MVPDs since 2017. FM stations must certify that they meet the required eligibility criteria and provide documentation or other evidence to support their certification.[6] FM stations must also report estimates of the types and amounts of repack-related costs that they expect to incur, relying either on the range of costs for such expenses in the Cost Catalog[7] or their own cost estimates or actual expenditures.[8] We review the eligibility and cost estimate submissions for sufficiency under our rules and then issue an initial allocation from the $50 million available for reimbursement of FM stations. We allocate the Fund in tranches to ensure that entities have the funding necessary to timely undertake construction projects while at the same time lessening the possibility of having to reduce future allocations and/or claw-backs of reimbursement payments that have

[3] The Spectrum Act provided $1.75 billion for full power, Class A stations and MVPDs. 47 U.S.C. §§ 1452(b)(4)(A)(i), (ii), 142(d). The REA addressed the Fund's apparent shortfall for full power and Class A stations and the lack of reimbursement funds for other categories of impacted broadcast stations. The REA appropriated a total of $1 billion, including $600 million in fiscal year 2018 and $400 million in fiscal year 2019. *See Consolidated Appropriations Act, 2018*, Pub. L. 115-141, at Division E, Title V, § 511, 132 Stat. 348 (2018) (codified at 47 U.S.C. § 1452(j)-(n)).

[4] Not more than $350 million from the newly-appropriated fiscal year 2018 funds is specified for reimbursement of full power and Class A stations and MVPDs. The REA also directs the Commission to reimburse costs reasonably incurred by FM stations to reasonably minimize disruption of service as a result of the repacking process and by displaced LPTV/translator stations to relocate or modify their facilities. *LPTV, TV Translator, and FM Broadcast Station Reimbursement; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report and Order, 34 FCC Rcd 1690 (2019) (*REA Report & Order*).

[5] *REA Report & Order*, 34 FCC Rcd at 1699-1700, para. 19.

[6] *Id.* at 1733-34, para. 91-92.

[7] [Cite Cost Catalog PN].

[8] *REA Report & Order*, 34 FCC Rcd at 1734-35, para. 94.

already been drawn down, and assuring that funds are fairly distributed among all entities.[9]

7. We received 93 submissions from FM stations. As a prudent steward of taxpayer money and to prevent waste, fraud, and abuse, together with the Fund Administrator we carefully evaluated their eligibility certifications and cost estimates. Requests for additional information were sent to entities where necessary certifications or documentation appeared to be missing, incomplete, or improperly submitted. After review, 87 FM stations have been determined to satisfy the requirements for eligibility to participate in the reimbursement program. Stations that were found not to meet the eligibility requirements have been notified of that finding.[10]

8. For eligible FM stations that submitted cost estimates,[11] the Fund Administrator reviewed the estimates and the accompanying supporting documentation to validate that the estimates reflect costs to reasonably minimize disruption of service as a result of the post-Incentive Auction transition. Requests for additional information were sent to entities where reasonableness could not be determined, necessary documentation appeared to be missing, or the cost estimates appeared to be excessive. After the Fund Administrator completed its review of the estimates, and the Bureau reviewed and verified the Fund Administrator's recommendations, the aggregate reimbursement demand for the purposes of the initial allocation, as of December 6, 2019, was $18,615,904.[12] Each FM station will receive a direct e-mail communication describing the results of the reasonableness review, which will include: (1) the aggregate verified amount for that entity's submitted estimate; (2) where adjustments (if any) were made; and (3) the amount of the modification to any cost estimate line items.

9. In the full power, Class A, and MVPD reimbursement program, we made an allocation on April 16, 2018, providing all entities an allocation of approximately 92.5 percent of their then-current verified cost estimates.[13] We believe that an initial allocation in an equivalent amount for FM stations will permit those FM stations to undertake projects to reasonably minimize disruption of their service. We hereby make an initial allocation to each of the 86 eligible FM stations that submitted cost estimates in the amount of 92.5 percent of that FM station's verified cost estimate. This allocation totals $17,219,711. The allocation amount is calculated based, in part, on the total amount of repacking expenses reported on the verified estimated cost forms and the amount of money available in the Reimbursement Fund for FM stations. Each FM station will receive a direct e-mail communication describing the precise allocation and the estimates upon which it was based. Authorized Agent(s) for FM

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[9] *Id.* at 1736-34, para. 97-98; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* Report and Order, 29 FCC Rcd 6567, 6812-26, paras. 598-636 (2014) (*Incentive Auction R&O)*; *Incentive Auction Task Force and Media Bureau Announce the Initial Reimbursement Allocation for Eligible Broadcasters and MVPDs*, Public Notice, 32 FCC Rcd 7556, 7556-57 (IATF/MB 2017) (*Initial Allocation PN*).

[10] *REA Report & Order*, 34 FCC Rcd at 1718-23, para. 54-62. FM stations that were determined to be ineligible for participation in the reimbursement program received a direct e-mail communication on behalf of the Bureau describing the results of the review and the reason the station was determined not to meet the eligibility requirements. If such stations are able to provide sufficient justification and supporting documentation as to why the determination should be re-considered, they may request the staff to unfreeze their filing in order to amend the submission.

[11] One FM station that was determined to be eligible did not file cost estimate information. At this time, therefore, no allocation can be made to that station.

[12] If, at the conclusion of the reasonableness review, certain expenses remained inadequately justified or otherwise not reimbursable, such expenses were, depending upon the nature of the concern, excluded from the recommended verified estimate amount or adjusted to the cost catalog amount for purposes of the FM station's initial allocation. We note, however, that additional cost documentation or other revisions subsequently submitted may be considered in a later allocation.

[13] *See Incentive Auction Task Force and Media Bureau Announce a Further Reimbursement Allocation for Eligible Broadcasters and MVPDs,* Public Notice, 33 FCC Rcd 3732 (IATF/MB 2018) (*Further Allocation PN*).

stations may view the exact amount of the FM station's individual allocations in the Auction Payments component of Commission Registration System (CORES) Incentive Auction Financial Module.[14]

10. FM stations may immediately begin submitting documentation of actual expenses incurred for approval to be drawn down against their individual allocations by uploading invoices or receipts and resubmitting the reimbursement form in the Bureau's Licensing and Management System. Invoices for actual expenses incurred that have already been submitted will also be reviewed and processed for payment upon approval. FM stations should also be aware that while there was no deadline for submission of Form 1876 banking instructions, payments cannot be made until a station's Form 1876 has been approved – a process that can take several weeks.

11. As the Commission has stated, holding back a percentage of the total estimated costs ensures that eligible entities do not face an undue financial burden while at the same time reduces the likelihood that the Commission might be required to "claw-back" payments that have already been drawn down by eligible entities.[15] We will monitor closely the drawdown of the Fund as well as revisions to initial cost estimates to determine if additional allocations are warranted. It is therefore important that eligible FM stations seeking reimbursement timely submit invoices after incurring costs.

12. The filing deadline for eligibility certifications and estimates by LPTV and TV translator stations was November 14, 2019. We have received 947 submissions from LPTV and TV translator stations which are currently under review. A future public notice will address those filings and make an initial allocation for eligible stations in that category.

Status of Broadcast Station Repack

13. We recognize the significant challenges presented by the broadcast transition and are pleased to report that the affected stations are successfully managing their channel re-assignment projects to meet the required schedule, and that all of the stations required to vacate their pre-auction channels to date have successfully done so. Substantial Commission resources are also being deployed to assist stations where feasible, including prompt action on requests, proactive outreach and support in problem solving, and modification of deadlines if needed and where they do not interfere with the overall transition schedule or resources needed by other transitioning stations.

14. The Commission determined that a phased construction schedule would facilitate efficient use of the resources necessary to complete the transition[16] and adopted the Transition Scheduling Plan (Plan) to determine the order and timetable for station relocations, resulting in the 10-phase schedule depicted below. [17] Repacked stations are assigned to a phase, and each phase has a testing period start

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[14] *See The Incentive Auction Task Force and Media Bureau Announce Procedures for Submitting Financial Information Required for Disbursement of Reimbursement Payments,* Public Notice, 34 FCC Rcd 7070 (MB/IATF Aug. 15, 2019).

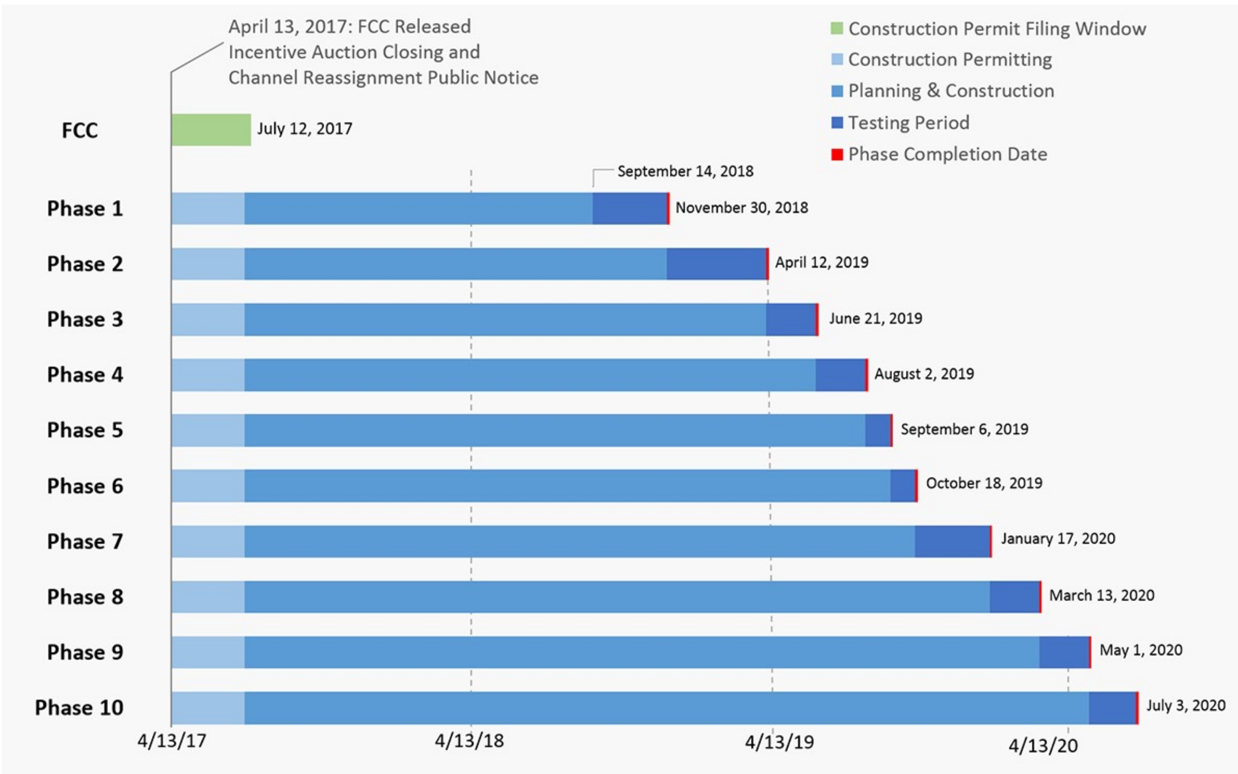
[15] *See REA Report & Order*, 34 FCC Rcd at 1739, para. 105 ("If any allocated funds remain in excess of the entity's actual costs determined to be eligible for reimbursement, those funds will revert back to the Reimbursement Fund. In addition, if an overpayment is discovered, even after the final allocation has been made, the entity receiving an overpayment must return the excess to the Commission."). *See also Incentive Auction R&O*, 29 FCC Rcd at 6819, paras. 614-16 (providing, "If any allocated funds remain in an entity's Treasury account in excess of the entity's actual costs determined to be eligible for reimbursement, those funds will revert back to the Reimbursement Fund.").

[16] *Incentive Auction R&O*, 29 FCC Rcd at 6801, para. 571 (2014) ("We recognize that resources needed for the transition process are limited. By structuring a phased transition, our goal is to mitigate the impact of these limitations by eliminating the need for all stations to obtain their equipment or schedule a tower crew at the same time."); *id.* at 6797, para. 563 (concluding that a phased construction schedule is most likely to ensure a successful transition for all broadcasters).

[17] *See Incentive Auction Task Force and Media Bureau Adopt Post-Incentive Auction Transition Scheduling Plan*, Public Notice, 32 FCC Rcd 890 (IATF/MB 2017) (*Transition Scheduling Adoption PN*). The methodology adopted reflects input from broadcasters, wireless companies, tower crews, equipment manufacturers, and other stakeholders.

date and phase completion date.[18] All the phases began on April 13, 2017, to provide the maximum available time for stations to complete planning and construction. The phase completion date is the date by which stations in that phase must cease operations on their pre-auction channels. The initial construction permit deadline for a station matched the phase deadline.[19]

15. Repacked stations have successfully completed six of the 10 phases. In addition, the Phase 7 testing period began on October 19, 2019, and although it does not end until January 17, 2020, dozens of stations assigned to that phase have already transitioned. As of December 6, 2019, 697 of the 987 repacked stations have moved off their pre-auction channel, representing 71 percent of the total repacked stations. We anticipate about 80 additional stations assigned to Phase 7 will transition by the January 17, 2020, phase completion date. We are optimistic that the stations in the last three phases will similarly be able to meet their phase completion dates. We will continue to monitor and work with those stations to ensure the continued success of the Transition Scheduling Plan.



16. The Transition Scheduling Plan anticipated resource constraints, weather impacts, and other factors. The Plan includes flexibility to work with individual stations that face unforeseen challenges on a case-by-case basis and to adjust requirements in a manner that does not negatively impact the overall schedule.[20] We have worked closely with stations that needed to implement such measures.

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[18] *See Closing and Channel Reassignment PN*, 32 FCC Rcd at 2806, para. 64.

[19] *Id.* Stations may transition any time after the start of the testing period for the station's assigned phase. Stations in a linked station set must coordinate their transition. *See Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, 33 FCC Rcd 8240 (IATF/MB 2018) (*Transition Reminder PN*) (reminding repacked stations required transition deadlines, application filing obligations, notice requirements, coordination with linked-stations, and providing additional guidance on certain transition matters).

[20] *See Transition Scheduling Plan Adoption PN*, 32 FCC Rcd at 912-14, paras. 47-52; Transition Reminder PN, 33 FCC Rcd at 8244-45, para. 14.

For instance, as of December 3, 2019, we have granted over 200 waivers to change the phase assignments for specific stations, either moving them to earlier or later phases to take advantage of efficiencies or as a result of unforeseen circumstances or delays. We also extended the Phase 5 deadline for five days – from September 6 to September 11, 2019 – to ensure that viewers would not be required to rescan their TVs during Hurricane Dorian and thereby risk missing important emergency news and information.[21] And we granted a request from 20 broadcast TV stations in Puerto Rico and the U.S. Virgin Islands to permit them to transition ahead of schedule for efficiency and resource conservation during recovery efforts after Hurricanes Maria and Irma and allowing them access to reimbursement for costs attributable to the repack.[22]

17. As of December 6, 2019, 79 percent of the 697 transitioned stations have fully completed their transition to permanent facilities. If necessary, transitioning stations may request extensions or tolling of their construction permit deadline and/or special temporary authority to use interim facilities to complete their transition to a post-auction channel while they continue to construct permanent post-auction facilities.[23] We have granted over 280 such requests by stations for relief during the transition, and many of those stations have already completed the transition to their permanent facilities. The remaining stations (21 percent of those that have transitioned off their post-auction channel) have been granted permission to operate on an interim basis at variance from the parameters proposed in their post-auction construction permit. The numbers listed above change constantly as stations cease operation on their pre-auction channel and complete their construction projects or resolve other issues and move onto their permanent facilities.

18. In keeping with our public interest obligation, we will continue working proactively with TV stations to ensure that over-the-air viewers receive the benefit of all broadcast TV stations in their areas, to the full extent of the permitted facilities. We stress that station operation from interim or auxiliary facilities is not necessarily due to transition-related delays, and such operation may not necessarily result in significantly diminished signal coverage. Some stations' interim operations are caused by the impact of a natural disaster or other non-repack-related circumstances. Some stations that have yet to complete construction of permitted facilities are using interim or auxiliary facilities that closely match their permitted facilities, resulting in only limited coverage or population loss. Further, some stations' interim facilities have coverage that is better than the station's pre-repack facilities, and the remaining construction work relates only to post-auction maximization. In still other instances, during a repacking station's period of limited coverage the station's broadcast content is available from another source, such as a station engaged in temporary joint use of a channel or a station whose programming may be received by its viewers from another station either through a simulcast arrangement or contour overlap.

Reimbursement of Full Power and Class A Television Stations and MVPDs

19. Initial cost estimates from full power and Class A stations and MVPDs totaled $2,139,861,869.[24] Commission staff, with assistance from the Fund Administrator, conducted an in-depth review of each cost estimate to calculate initial allocations for each full power station, Class A

[21] *The Completion Date for Phase 5 of the Post-Incentive Auction Transition Is Extended to September 11, 2019 Because of Hurricane Dorian*, Public Notice, 34 FCC Rcd 7885 (MB/IATF 2019).

[22] *Incentive Auction Task Force and Media Bureau Grant Waiver of the post-Auction Transition Schedule and Modify the Transition Phase Assignments of Repacked Stations in Puerto Rico and the U.S. Virgin Islands*, Public Notice, 33 FCC Rcd 138 (MB/IATF 2018).

[23] *See Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 871-74, paras. 39-49 (IATF/MB 2017) (*Broadcast Procedures PN)*; *Transition Reminder PN*, 33 FCC Rcd at 8242-44, paras. 7-9 and 11-13.

[24] *Initial Allocation PN*, 32 FCC Rcd 7556.

station, and MVPD that was eligible for reimbursement. After review, the aggregate verified estimates for the purposes of the initial allocation was $1,863,971,470. We have continued to receive and review revised estimates that both increase and decrease the anticipated costs of transition. As of December 6, 2019, the aggregate verified estimates for full power and Class A stations and MVPDs was $1,951,302,007.

20. To ensure that reimbursement funds are allocated fairly and consistently and to have sufficient flexibility to make reasoned allocation decisions that maximize the funds available for reimbursement, funds are being allocated in tranches, with the allocation amounts calculated based in part on the total amount of repacking expenses reported on the estimated cost forms as well as the amount of money available in the Reimbursement Fund. In making allocations to full power and Class A stations and MVPDs, we have noted that estimated costs appear to be rising during the transition period.[25] An initial allocation was made on October 16, 2017,[26] and additional allocations and adjustments have been made since that time. Since April 16, 2018, the allocation amount for each full power and Class A station and MVPD has been calculated as 92.5 percent of the entity's verified estimates.[27] As of the last allocation adjustment on October 2, 2019, the total allocated amount of the Reimbursement Fund for full power and Class A stations and MVPDs is $1,853,847,150.

21. Full power and Class A stations and MVPDs draw down the allocation and receive reimbursement from the U.S. Treasury as they submit invoices for eligible expenses to the Commission that are approved for payment.[28] As of December 6, the Commission has reimbursed full power and Class A stations and MVPDs for submitted invoices a total of approximately $886,033,437, including $860,144,147 to full power TV stations, $25,664,778 to Class A TV stations, and $224,512 to MVPDs.

22. We rely on drawdown amounts and submitted estimates, including revisions, to make allocation decisions, and we continue to encourage eligible entities to promptly submit invoices for reimbursement of incurred costs and to revise their cost estimates, if applicable, based on more refined quotations from vendors and other current information.[29]

Consumer Education Efforts

23. We continue our ongoing effort to advise consumers of the need to rescan their over-the-air TVs as a result of the repack, and to provide access to information on how to rescan, in order to ensure that they receive uninterrupted local and national news, emergency alerts, and other TV programming from their local stations. Our outreach efforts use a variety of channels, involved paid media and earned (i.e. free) media, and are geographically targeted to viewers in markets impacted by the rescan on a phase-by-phase basis. In all our activities, we are coordinating closely with industry stakeholders to ensure that our consumer education efforts are complementary to, and not duplicative of, industry efforts.

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[25] *Initial Allocation PN*, 32 FCC Rcd at 7558 (stating, "verified estimates used for purposes of this initial allocation are likely to rise as Eligible Entities are able to produce adequate justification for their unverified initial estimates and refine and supplement their estimates as their construction planning and execution continues, including, for instance, as stations more fully evaluate tower and rigging needs, incur engineering and other consulting costs, and realize the impact of cost increases in equipment and services over the three-year transition period."); *Further Allocation PN,* 33 FCC Rcd at 3734 (stating that "[c]onsistent with our expectation in the *Initial Allocation PN*, we anticipate that estimated costs will continue to rise.")

[26] *Initial Allocation PN*, 32 FCC Rcd at 7558-59.

[27] *Further Allocation PN*, 33 FCC Rcd 3732.

[28] *Incentive Auction R&O*, 29 FCC Rcd at 6817-18, para. 611 n.1725; *Broadcast Procedures PN*, 32 FCC Rcd at 882-83, paras. 75-77 (IATF/MB 2017).

[29] *See e.g. Initial Allocation PN*, 32 FCC Rcd at 7559; *Incentive Auction Task Force and Media Bureau Announce a Forthcoming Reimbursement Allocation for Eligible Broadcasters and MVPDs*, Public Notice, 33 FCC Rcd 2170 (IATF/MB 2018) (*Forthcoming Allocation PN*).

24. We have received over 2.1 million hits to the "FCC.gov/TVrescan" webpage that we launched in 2018 to provide consumer information, in multiple languages, regarding what to expect during the transition and how to rescan an over-the-air television receiver. Our phase-by-phase, geo-targeted consumer outreach program has resulted in more than 1,700 airings of radio interviews, with an estimated audience of over 4.5 million listeners, as well as more than 2,000 print and online media placements across the U.S., with many in rural, harder-to-reach markets.

25. The dedicated consumer call center for rescan help that launched in early 2019 supports consumers seven days a week from 8 AM to 1 AM Eastern Time in both English and Spanish. The call center volumes spike during the week surrounding a phase completion date, demonstrating that consumers are receiving messaging that provides the 1-888-CALLFCC number. As of December 6, 2019, the call center has handled 58,804 consumer calls, including 50,903 in English and 7,901 in Spanish.

26. For additional information or questions about the reimbursement process, please call the Reimbursement Help Line at (202) 418-2009, or e-mail Reimburse@fcc.gov. Questions about the FM allocation in this Public Notice may be directed to Thomas Nessinger at 202-418-2709 or Thomas.Nessinger@fcc.gov. Questions about the full power, Class A, and MVPD program may be directed to Dana Leavitt at 202 418-1371 or Dana.Leavitt@fcc.gov. Questions about full power and Class A station transition deadlines may be directed to Evan Morris at 202-418-1656 or Evan.Morris@fcc.gov. Press contact: Neil Grace, (202) 418-0506 or Neil.Grace@fcc.gov.

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