



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON OPTIONAL LUMP SUM PAYMENTS FOR 3.7-4.2 GHZ BAND INCUMBENT EARTH STATION RELOCATION EXPENSES

GN Docket No. 18-122

Comments due: 7 days after publication in the Federal Register

With this Public Notice, the Wireless Telecommunications Bureau (the Bureau) invites interested parties to provide additional comment on the preliminary lump sum categories and payment amounts available to Fixed Satellite Service (FSS) incumbent earth station operators as part of the 3.7-4.2 GHz band (C-band) transition.¹

In the *3.7 GHz Band Report and Order*, the Commission adopted rules to make 280 megahertz of mid-band spectrum available for flexible use, plus a 20 megahertz guard band, throughout the contiguous United States by transitioning existing services out of the lower portion and into the upper 200 megahertz of the C-band.² The *3.7 GHz Report and Order* established that new 3.7 GHz Service licensees will reimburse the reasonable relocation costs of eligible incumbents, including incumbent FSS earth station operators, to transition to the upper 200 megahertz of the band.³ The *3.7 GHz Report and Order* established that incumbent FSS earth station operators may either accept: (1) reimbursement for their actual reasonable relocation costs by maintaining satellite reception; or (2) a lump sum reimbursement “based on the average, estimated costs of relocating all of their incumbent earth stations” to the upper 200

¹ See 47 CFR § 27.1419.

² *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2345, para. 4 (2020) (*3.7 GHz Report and Order*).

³ *3.7 GHz Report and Order*, 35 FCC Rcd at 2391, 2465-66, paras. 111, 326; 47 CFR § 27.4. The *3.7 GHz Report and Order* defines the incumbent earth stations that will be eligible to receive their reasonable relocation costs. See *id.* at 2392, para. 116 (incumbent earth stations are those FSS earth stations that: “(1) were operational as of April 19, 2018; (2) are licensed or registered (or had a pending application for license or registration) in the IBFS database as of November 7, 2018; and (3) have timely certified, to the extent required by the *Order* adopted in FCC 18-91 (as we clarify . . . to include certain renewal applications and license and registration applications filed through November 7, 2018), the accuracy of information on file with the Commission”); 47 CFR § 27.1411(b)(3) (defining incumbent earth stations).

megahertz of the C-band.⁴ The *3.7 GHz Report and Order* directed the Bureau to establish a cost category schedule of the types of expenses that incumbents may incur.⁵

The Commission engaged a third-party contractor, RKF Engineering Solutions, LLC (RKF), to assist in identifying costs that incumbents might incur and to assist with the development of a cost category schedule.⁶ With assistance from RKF, the Bureau developed the 3.7 GHz Transition Preliminary Cost Category Schedule of Potential Expenses and Estimated Costs (Preliminary Cost Catalog), which proposed classes of earth stations eligible for lump sum payments but did not specify the amounts.⁷ We sought comment on the earth station classes and specific costs and prices that should ultimately be included in the lump sums.⁸ In response, commenters proposed additional classes of earth stations, including a separate category for multichannel video programming distributor (MVPD) earth stations.⁹ Some commenters offered methodologies for calculating the lump sum amounts and proposed lump sum amounts.¹⁰

⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2427-28, paras. 202-203. *But see id.* at 2428, para. 204 & n.550 (noting that “incumbent earth stations owners may not elect a lump sum payment for earth stations outside of the contiguous United States”).

⁵ *Id.* at 2428, 2448, paras. 203, 262.

⁶ *Wireless Telecommunications Bureau Seeks Comment on Preliminary Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses*, GN Docket No. 18-122, Public Notice, DA 20-457, at 2 (WTB Apr. 27, 2020) (*Cost Catalog Public Notice*).

⁷ *Cost Catalog Public Notice* at 2; *id.* at Attach.; *see also 3.7 GHz Report and Order*, 35 FCC Rcd at 2428, para. 203 (directing Bureau to “identify lump sum amounts for various classes of earth stations—e.g., MVPDs, non-MVPDs, gateway sites—as appropriate”).

⁸ *Cost Catalog Public Notice* at 2.

⁹ *See, e.g.*, ACA Connects – America’s Communications Association Comments at 14-15 (proposing that the Bureau include a lump sum amount for MVPD earth stations) (ACA Connects); Cox Communications, Inc. Comments at 2 (Cox) (asking Commission to include categories for MVPD earth stations, including MVPD small receive-only, MVPD large receive-only, and MVPD large multi-beam earth stations).

¹⁰ *See, e.g.*, ACA Connects Comments at 16-17 (discussing lump sum methodology developed by Cartesian for MVPD earth stations based on characteristics occurring in 50% or more of MVPD earth stations); *id.* at Attach., Cartesian, C-Band Transition Cost Assessment at 20-22; Cox Comments at 5-9 (proposing a methodology accounting for installing new IRDs and transcoders and changing physical link setups and offering lump sum amounts for three categories of MVPD earth stations); Letter from Barry J. Ohlson, Vice President, Regulatory Affairs, Cox Enterprises, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122, at Attach., “C-Band Re-Packing Cost Analysis” (filed May 21, 2020) (discussing methodology for calculating Cox’s relocation costs); Eutelsat, SA, Comments at 6-8 (filed May 14, 2020) (suggesting that the Bureau should create a lump sum payment equal to twice the average cost of relocating an incumbent’s earth station); Intelsat Comments at 8-11 (proposing alternative categories and methodology based on earth station type rather than antenna type); AT&T Comments at 3-4, n.8 (proposing that the Bureau develop and incorporate into the lump sum amounts standalone averages for classes of technology upgrades or develop averages for subclasses of MVPD earth stations with and without particular technology upgrades).

Commenters also identified additional transition costs to be included in the calculation, such as modulation and encoding technology.¹¹

After considering the comments received in response to the *Cost Catalog Public Notice*, the Bureau, with assistance from RKF, has updated the classes of earth stations and developed proposed lump sum amounts for each class of earth station.¹² We seek additional comment on the proposed earth station classes and proposed lump sum amounts.¹³ We also seek comment on the methodology for determining average estimated costs. Do the modified categories accurately reflect the relevant classes of earth stations? Do the lump sum amounts reflect the average estimated costs of relocation for each class of earth station, as required by the *3.7 GHz Report and Order*?¹⁴

Updated Classes of Earth Stations. We propose a modified list of earth station classes to more accurately reflect the types of earth stations currently operating in the contiguous United States and to account for the additional costs that MVPD earth station operators may incur during the transition.¹⁵ To determine the relevant lump sum amount, the threshold question is whether an earth station is used for MVPD or non-MVPD operations. Non-MVPD earth station operators would be eligible to receive the base amounts for the relevant class of earth station(s) they operate (e.g., receive only single-feed; receive only multi-feed, small multi-beam, etc.). MVPD earth station operators would be eligible to receive the relevant base amount, as well as

¹¹ See, e.g., Cox Comments at 5-6 (urging the Bureau to include the cost of modulation and encoding-related costs in the MVPD earth station lump sum amount); see also NCTA – The Internet & Television Association Comments at 26 (filed May 14, 2020) (NCTA) (asking the Commission to include in the lump sum all cost categories that operators would expect to incur, including soft costs, project management costs, and costs for modulation and encoding equipment).

¹² *3.7 GHz Report and Order*, 35 FCC Rcd at 2427, para. 202.

¹³ Some parties have asked the Commission to seek comment on lump sum values before finalizing them and to set the comment deadline after incumbent satellite operators file their Transition Plans, so that parties can review them before commenting on the lump sums. See Cox Comments at 2 (asking Commission to set lump sum comment deadline after June 26, 2020); NCTA Comments at 29-30 (asking the Bureau to allow stakeholders to comment on cost catalog and lump sum amounts after satellite operators file their Transition Plans); see also ACA Connects Comments at 7-8 (asking the Bureau to complete the lump sum determinations only after the satellite operators file their Transition Plans). We have considered these parties' requests and have elected to provide an additional opportunity for comment. We also note that under the current timeframe, incumbent earth station operators will make their lump sum elections after satellite operators have filed their Transition Plans and those plans have been made available for public comment, allowing earth station operators to consider the Transition Plans in making their lump sum elections should they choose to do so. See *3.7 GHz Report and Order*, 35 FCC Rcd. at 2428, 2457-59, paras. 203, 302, 305-06 (discussing transition deadlines).

¹⁴ As a reminder, to the extent incumbent earth station operators have concerns that the lump sum amounts would not fully cover their costs, nothing precludes them from seeking compensation for their actual reasonable relocation costs rather than electing to receive a lump sum. *3.7 GHz Report and Order*, 35 FCC Rcd at 2427, para. 202. The lump sum amounts reflect the *average*, estimated cost of relocation for each class of earth station, and accordingly they may not fully address the needs of operators with more complex transitions. See *id.*

¹⁵ See ACA Connects Comments at 14; Cox Comments at 2.

the amount associated with any relevant technology upgrades (e.g., Integrated Receiver/Decoder (IRD) replacements) that would be required to transition each eligible MVPD earth station.¹⁶

Methodology to Calculate Lump Sum Amounts. We calculated the base lump sum amounts using the relevant earth station cost components from the Preliminary Cost Catalog, with adjustments based on feedback from commenters. For each cost item from the Preliminary Cost Catalog, we determined the likely number of instances various cost items would be used in an average transition for that earth station class, i.e., how many modifications or component replacements were needed for a given type of earth station in a typical transition. The cost of the modification or replacement used for the lump sum calculation was the average cost of the range from the Preliminary Cost Catalog. Depending on the type of earth station, we input different modifications or component changes based on the typical range of changes that would be necessary for this type of earth station transition. Some cost elements like soft costs, travel, and filtering apply to all types of earth stations, whereas monthly rental earth stations, fiber transmitters, and other cost elements only apply to more complex earth station transitions.

We seek comment on the methodology for calculating the lump sum base amounts. Do the assumptions we make accurately represent the average transition for each class of earth station? For costs that will not be necessary in all transitions, in what percentage of typical transitions for each earth station class would those cost items be necessary? For example, if it is estimated that a rental antenna is needed for 33% of the transitions, the lump sum calculation includes 33% of the cost of such an item. We seek comment on this approach and invite commenters to provide specific data or information on the percentages of typical transitions that would require various expenses.

We list two types of technology upgrades for MVPDs (MVPD downlink receiver replacement and program source uplink transmitter replacement and associated changes to shift to higher order modulation techniques) as separate line items and do not include them in the earth station base lump sum amounts. As indicated, these specific technology upgrade lump sum payments can be claimed by MVPD operators only for those MVPD earth stations where upgrades are necessary for the continued provision of existing services after the transition. Similar to the calculation method for earth station lump sum base amounts, we calculate the technology upgrade lump sum amounts from the average cost of relevant cost elements using a typical number of channels that will need to be upgraded, the amount of equipment to be replaced, and other expenses necessary to achieve the technology upgrade. We seek comment on whether our method of calculating the lump sum payment for technology upgrades adequately addresses the needs of the stakeholders that may need to replace equipment to operate higher order modulation technologies to meet service demands in the remaining 200 megahertz of the C-band. Should there be additional technology upgrade lump sum options based on a more specific demonstration of the level of equipment replacement that is needed? What type of demonstration should we require from MVPD earth station operators to receive technology

¹⁶ We note that the Relocation Payment Clearinghouse and the Commission would verify the need for such technology upgrades before including that amount in the lump sum amount distributed. *See 3.7 GHz Report and Order*, 35 FCC Rcd at 2422-23, paras. 194-95 (explaining that upgrades may be compensable “so long as they are reasonably necessary to complete the transition in a timely manner”); *see also id.* at 2428, para. 203 (directing the Bureau to establish the lump sum amounts and the process for electing lump sum amounts); *see also id.* at 2447-48, paras. 259-61 (describing duties of Relocation Payment Clearinghouse with respect to incumbents’ reimbursement).

upgrade lump sum payments? Are there other methods to address the technology upgrade needs for those interested in lump sum payments? How many received channels will need technology upgrades in a typical transition? What percentage of MVPD earth station sites will need technology upgrades? What percentage of various cost factors need to be deployed in the typical transition?

Lump Sum Amounts. We seek comment on the base lump sum amounts for each class of earth station as well as the technology upgrade lump sum amounts.

Estimated Lump Sum Payments per Earth Station	Average Estimated Cost (\$)
<i>Base Lump Sum Payments</i>	
Receive-Only Earth Station (ES) Single-feed	5,217
Receive-Only ES Multi-feed	22,233
Receive-Only Small Multi-beam (2-4 beams) ES	43,159
Receive-Only Large Multi-beam (5+ beams) ES	53,381
Gateway ES (bi-directional)	20,726
Temporary Fixed ES (mobile Electronic News Gathering trucks)	3,060
<i>Technology Upgrade Lump Sum Payments for Qualifying MVPD Earth Stations</i>	
MVPD Downlink Technology Upgrades (per earth station)	70,782
Program Source Uplink Technology Upgrades	156,932

After this additional comment period, and consistent with the *3.7 GHz Report and Order*, the Bureau will consider the record compiled on these issues and publish the final lump sum amounts and provide instructions for making such an election.¹⁷

Filing Requirements. Interested parties are invited to file comments on or before the date indicated on the first page of this document. All filings must reference GN Docket No. 18-122. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial courier or by the U.S. Postal Service. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

¹⁷ See *3.7 GHz Report and Order*, 35 FCC Rcd at 2428, para. 203; 47 CFR § 27.1419.

- U.S. Postal Service First-Class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.
- **Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>**
- **During the time the Commission’s building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.**

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Ex Parte Rules. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenters written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission’s rules. In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf).¹⁹ Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Additional Information. For further information regarding this Public Notice, please contact Susan Mort, Wireless Telecommunications Bureau, at Susan.Mort@fcc.gov or 202-418-

¹⁸ See 47 CFR § 1.1200 *et seq.*

¹⁹ *Id.* § 1.1206(b).

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