

§ 24.247

47 CFR Ch. I (10-1-04 Edition)

incumbent, must submit documentation itemizing the amount spent for items listed in §24.243(b). The voluntarily relocating microwave incumbent, must also submit an independent third party appraisal of its compensable relocation costs. The appraisal should be based on the actual cost of replacing the incumbent's system with comparable facilities and should exclude the cost of any equipment upgrades or items outside the scope of §24.243(b). The PCS relocater or the voluntarily relocating microwave incumbent, must identify the particular link associated with appropriate expenses (*i.e.*, costs may not be averaged over numerous links). If a PCS relocater pays a microwave incumbent a monetary sum to relocate its own facilities, the PCS relocater must estimate the costs associated with relocating the incumbent by itemizing the anticipated cost for items listed in §24.243(b). If the sum paid to the incumbent cannot be accounted for, the remaining amount is not eligible for reimbursement. A PCS relocater may submit receipts or other documentation to the clearinghouse for all relocation expenses incurred since April 5, 1995.

(c) *Full Reimbursement.* A PCS relocater who relocates a microwave link that is either fully outside its market area or its licensed frequency band may seek full reimbursement through the clearinghouse of compensable costs, up to the reimbursement cap as

defined in §24.243(b). Such reimbursement will not be subject to depreciation under the cost-sharing formula.

[61 FR 29692, June 12, 1996, as amended at 62 FR 12757, Mar. 18, 1997; 65 FR 46113, July 27, 2000]

§24.247 **Triggering a reimbursement obligation.**

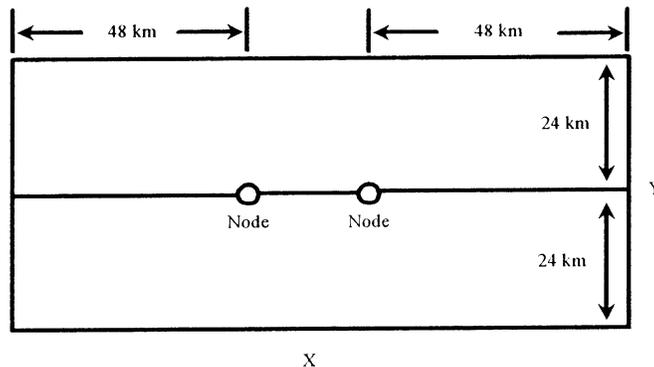
(a) *Licensed PCS.* The clearinghouse will apply the following test to determine if a PCS entity preparing to initiate operations must pay a PCS relocater or a voluntarily relocating microwave incumbent in accordance with the formula detailed in §24.243:

(1) All or part of the relocated microwave link was initially co-channel with the licensed PCS band(s) of the subsequent PCS entity;

(2) A PCS relocater has paid the relocation costs of the microwave incumbent; and

(3) The subsequent PCS entity is preparing to turn on a fixed base station at commercial power and the fixed base station is located within a rectangle (Proximity Threshold) described as follows:

(i) The length of the rectangle shall be  $x$  where  $x$  is a line extending through both nodes of the microwave link to a distance of 48 kilometers (30 miles) beyond each node. The width of the rectangle shall be  $y$  where  $y$  is a line perpendicular to  $x$  and extending for a distance of 24 kilometers (15 miles) on both sides of  $x$ . Thus, the rectangle is represented as follows:



X

(ii) If the application of the Proximity Threshold test indicates that a reimbursement obligation exists, the clearinghouse will calculate the reimbursement amount in accordance with the cost-sharing formula and notify the subsequent PCS entity of the total amount of its reimbursement obligation.

(b) *Unlicensed PCS.* UTAM's reimbursement obligation is triggered either:

(1) When a county is cleared of microwave links in the unlicensed allocation, and UTAM invokes a Zone 1 power cap as a result of third party relocation activities; or

(2) A county is cleared of microwave links in the unlicensed allocation and UTAM reclassifies a Zone 2 county to Zone 1 status.

[61 FR 29692, June 12, 1996, as amended at 62 FR 12757, Mar. 18, 1997]

#### § 24.249 Payment issues.

(a) *Timing.* On the day that a PCS entity files its prior coordination notice (PCN) in accordance with § 101.103(d) of this chapter, it must file a copy of the PCN with the clearinghouse. The clearinghouse will determine if any reimbursement obligation exists and notify the PCS entity in writing of its repayment obligation, if any. When the PCS entity receives a written copy of such obligation, it must pay directly to the PCS relocater or the voluntarily relocating microwave incumbent the amount owed within thirty days, with the exception of those businesses that qualify for installment payments. A business that qualifies for an installment payment plan must make its first installment payment within thirty days of notice from the clearinghouse. UTAM's first payment will be due thirty days after its reimbursement obligation is triggered, as described in § 24.247(b).

(b) *Eligibility for Installment Payments.* PCS licensees that are allowed to pay for their licenses in installments under our designated entity rules will have identical payment options available to them with respect to payments under the cost-sharing plan. The specific terms of the installment payment mechanism, including the treatment of principal and interest, are the same as

those applicable to the licensee's installment auction payments. If, for any reason, the entity eligible for installment payments is no longer eligible for such installment payments on its license, that entity is no longer eligible for installment payments under the cost-sharing plan. UTAM may make quarterly payments over a five-year period with an interest rate of prime plus 2.5 percent. UTAM may also negotiate separate repayment arrangements with other parties.

[61 FR 29693, June 12, 1996, as amended at 62 FR 12757, Mar. 18, 1997]

#### § 24.251 Dispute resolution under the Cost-Sharing Plan.

Disputes arising out of the cost-sharing plan, such as disputes over the amount of reimbursement required, must be brought, in the first instance, to the clearinghouse for resolution. To the extent that disputes cannot be resolved by the clearinghouse, parties are encouraged to use expedited ADR procedures, such as binding arbitration, mediation, or other ADR techniques.

[61 FR 29693, June 12, 1996]

#### § 24.253 Termination of cost-sharing obligations.

The cost-sharing plan will sunset for all PCS entities on April 4, 2005, which is ten years after the date that voluntary negotiations commenced for A and B block PCS entities. Those PCS entities that are paying their portion of relocation costs on an installment basis must continue the payments until the obligation is satisfied.

[61 FR 29693, June 12, 1996]

#### APPENDIX I TO SUBPART E OF PART 24— A PROCEDURE FOR CALCULATING PCS SIGNAL LEVELS AT MICROWAVE RECEIVERS (APPENDIX E OF THE MEMORANDUM OPINION AND ORDER)

The new Rules adopted in Part 24 stipulate that estimates of interference to fixed microwave operations from a PCS operation will be based on the sum of signals received at a microwave receiver from the PCS operation. This appendix describes a procedure for computing this PCS level.

In general, the procedure involves four steps:

1. Determine the geographical coordinates of all microwave receivers operating on co-