

Pre-Transition Data Request (see paragraph (f) of this section).

(e) A proponent(s) may, at its own discretion, withdraw from transitioning a MEA(s) by amending the information submitted to the Commission under paragraph (d) of this section and notifying all affected BRS and EBS licensees in the MEA(s).

(f) *Pre-transition data request.* To assist a potential proponent(s) in assessing whether to transition a MEA(s), a proponent(s) must send a Pre-transition data request to each EBS and BRS licensee in the MEA the proponent(s) seeks to transition. The proponent(s) shall include its full name, postal mailing address, contact person, e-mail address, and phone and fax numbers. The proponent(s) must request EBS and BRS licensees within a MEA to provide the following information to the potential proponent(s):

(1) The location (by street address and by geographic coordinates) of every constructed EBS receive site that, as of the date of receipt of the Pre-Transition Data Request, is entitled to a replacement downconverter (see § 27.1233(a)). The response must:

(i) Specify whether the downconverting antenna is mounted on a structure attached to the building or on a free-standing structure;

(ii) Specify the approximate height above ground level of the downconverting antenna;

(iii) Specify, if known, the adjacent channel D/U ratio that can be tolerated by any receiver(s) at the receive site; and

(2) The number and identification of EBS video programming or data transmission tracks the EBS licensee is entitled to receive in the MBS and whether the EBS licensee will accept fewer tracks in the MBS (see § 27.1233(b)).

(g) *The Transition notice.* The proponent(s) must send a Transition Notice to all BRS and EBS licensees in the MEA(s) being transitioned. The proponent(s) must include the following information in the Transition Notice:

(1) The proponent(s)'s full name; postal mailing address, contact person, e-mail address, and phone and fax numbers;

(2) The identification of the BRS and EBS licensees that will be transitioned;

(3) Copies of the most recent response to the Pre-Transition Data Request for each participant in the process; and

(4) A certification that the proponent(s) has the funds available to pay the reasonably expected costs of the transition based on the information in the Pre-Transition Data Request.

EFFECTIVE DATE NOTE: At 69 FR 72034, Dec. 10, 2004, § 27.1231 was added. Paragraphs (d) and (f) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 27.1232 Planning the transition.**

(a) *The Transition planning period.* The Transition Planning Period is a 90-day period that commences on the day after the proponent(s) file the Initiation Plan with the Commission.

(b) *The Transition plan.* The proponent(s) must provide to each BRS and EBS licensee within an MEA, a Transition Plan no later than 30 days prior to the conclusion of the Transition Planning Period.

(1) The Transition Plan must:

(i) Identify the call signs of the stations that are transitioning;

(ii) Identify the specific channels that each licensee will receive following the transition;

(iii) Identify the receive sites at which replacement downconverters will be installed (see § 27.1233(a));

(iv) Identify the video programming and data transmission tracks that will be migrated to the MBS and provide for the MBS channels to be authorized to operate with transmission parameters that are substantially similar to those of the licensee's operation prior to transition (see § 27.1233(b));

(v) Identify the technical configuration of the MBS facilities;

(vi) Identify the approximate time line for effectuating the transition, which, unless dispute resolution procedures are used, may not exceed 18 months from the conclusion of the Transition Planning Period;

(vii) Provide for the establishment of an escrow or other appropriate mechanism for ensuring completion of the

transition in accordance with the Transition Plan.

(2) The Transition Plan may provide for interruptions of EBS transmissions, so long as those interruptions are limited to a period of less than seven days at any reception site. The proponent(s) must coordinate with each EBS licensee to minimize the extent of any disruption.

(3) The Transition Plan may provide for the shifting of an EBS licensee's program to alternative channels. Such shifting may not be considered an interruption, if the EBS licensee's receive sites are equipped to receive and internally distribute the channel to which the programming is shifted.

(4) The Transition Plan may provide for the installation of an appropriate filter on an MBS transmitter if the proponent(s) determines that the installation of a filter will mitigate interference from transmissions in the MBS to operations outside the MBS.

(c) *Counterproposals.* No later than 10 days before the conclusion of the Transition Planning Period, affected BRS and EBS licensees may submit a counterproposal to the proponent(s) if they believe that the Transition Plan is unreasonable. The proponent(s) may:

(1) Accept the counterproposal, modify the Transition Plan accordingly, and send the modified Transition Plan to all EBS and BRS licensees in the MEA;

(2) Invoke dispute resolution procedures for a determination of whether the Transition Plan is reasonable and take no action until a determination of reasonableness is made; or

(3) Invoke dispute resolution procedures for a determination of whether the Transition Plan is reasonable, but may implement the transition immediately.

(d) *Safe harbors.* An offer by a proponent(s) shall be reasonable if it meets one of the following safe harbors:

(1) *Safe harbor #1.* This safe harbor applies when the default high-power channel assigned to each channel group is authorized to operate after the transition with the same transmission parameters (coordinates, antenna pattern, height of center radiation, EIRP) as the downstream facilities before the

transition. If the proponent(s) does not propose a change in the geographic coordinates of the facilities (other than as necessary to conform the actual location with the Commission's Antenna Survey Branch database), the proponent may also propose the following to the extent consistent with this subpart:

(i) An increase in the height of the center of radiation of the transmission antenna or a decrease in such height of no more than 8 meters (provided that such change does not result in an increase in antenna support structure lease costs to the EBS licensee and the consent of the owner of the antenna support structure is obtained).

(ii) A change in the EIRP of the transmission system of up to 1.5 dB in any direction.

(iii) Digitization, precision frequency offset, or other upgrades to the EBS transmission or reception systems that allow the proponent(s) to invoke more advantageous interference protection requirements applicable to upgraded systems.

(2) *Safe harbor #2.* This safe harbor applies when an EBS licensee has channel-shifted its single video programming or data transmission track to spectrum licensed to another licensee. Under § 27.5(i)(2), that track must be on the high-power channel licensed to the EBS licensee upon completion of the transition. For example, before the transition, an A Group licensee might have shifted its EBS video programming to channel C1. If one of the pre-transition A Group channels is licensed with technical parameters substantially similar to those of pre-transition channel C1, the Transition Plan may provide for high-power channel A4 to be licensed with the same technical parameters as the pre-transition channel C1. However, if the pre-transition A Group channels are licensed to operate with technical parameters materially different from those of pre-transition channel C1, the proponent(s) may:

(i) Arrange a channel swap with the licensee of the C Group so that the A Group licensee will receive high-power channel C4 (which will automatically be licensed with the same transmission parameters as the pre-transition channel C1) in exchange for channel A4.

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(ii) Arrange for high-power channel A4 to operate with transmission parameters substantially similar to those of the pre-transition channel C1 (see paragraph (d)(1) of this section).

### § 27.1233 Reimbursement costs of transitioning.

(a) *Replacement downconverters.* The proponent(s) must install at every eligible EBS receive site a downconverter designed to minimize the reception of signals from outside the MBS.

(1) An EBS receive site is eligible to be replaced if:

(i) A reception system was installed at that site on or before the date the EBS licensee receives its Pre-Transition Data Request (see § 27.1231(f));

(ii) The reception system was installed by or at the direction of the EBS licensee;

(iii) The reception system receives EBS programming under § 27.1203(b) and (c) or is located at a cable television system headend and the cable system relays educational or instructional programming for an EBS licensee; and

(iv) It is within the licensee's 35-mile radius GSA.

(2) Replacement downconverters must meet the following minimum technical requirements:

(i) The downconverter's input frequency range (the "in-band frequencies") must be 2572 MHz to 2614 MHz and output frequency range must be 294 MHz to 336 MHz;

(ii) The downconversion process must not invert frequencies;

(iii) The nominal gain of the downconverter must be 32 dB, or greater;

(iv) The downconverter must include filtering prior to the first amplifier that attenuates frequencies below 2500 MHz and above 2705 MHz by at least 25 dB;

(v) The downconverter must have an out-of-band input 3rd order intercept point (input IP3) of at least +9 dBm, where out-of-band is defined as all frequencies below 2566 MHz and all frequencies above 2620 MHz;

(vi) The downconverter must have a typical noise figure of no greater than 3.5 dB and a worst case noise figure of no greater than 4.5 dB across all in-

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band frequencies and across its entire intended operating temperature range;

(vii) The downconverter must not introduce a delta group delay of more than 20 nanoseconds for digital operations or 100 nanoseconds for analog operations over any individual six megahertz MBS channel.

(b) *Migration of Video Programming and Data Transmission Track.* (1) The proponent(s) must provide, at its cost, to each EBS licensee that intends to continue downstream high-power, high-site educational video programming or data transmission services, with one programming track on the MBS channels for each EBS video or data transmission track the licensee is transmitting on a simultaneous basis before the transition.

(i) To be eligible for migration, a program track must contain EBS programming that complies with § 27.1203 (b) and (c).

(ii) The proponent(s) must pay only the costs of migrating programming tracks being transmitted on December 31, 2002 or within six months prior thereto.

(2) The proponent(s) must migrate each eligible programming track to spectrum in the MBS that will be licensed to the affected licensee at the conclusion of the transition.

(3) After the transition, the desired-to-undesired signal level ratio at each of the receive sites securing a replacement downconverter must satisfy the following criteria:

(i) *Cochannel D/U Ratio.* (A) When the post-transition desired signal is transmitted using analog modulation, the actual cochannel D/U ratio measured at the output of the reception antenna must be at least the lesser of 45 dB or the actual pre-transmission D/U ratio less 1.5 dB.

(B) When the post-transition desired signal will be transmitted using digital modulation, the actual cochannel D/U ratio measured at the output of the reception antenna must be at least the lesser of 32 dB or the pre-transition D/U ratio less 1.5 dB.

(C) Where in implementing the Transition Plan, the proponent(s) deploys precise frequency offset in an analog system, the minimum cochannel D/U ratio is reduced to 38 dB, provided that