



PUBLIC NOTICE

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INTERNATIONAL BUREAU UPDATES PROCEDURES FOR FILING AND MAINTAINING SURETY BONDS PURSUANT TO REVISED MILESTONE AND ESCALATING BOND REQUIREMENTS

Report No. SPB-266

On December 15, 2015, the Federal Communications Commission adopted revisions to its rules governing satellite services.¹ These revisions were published in the Federal Register on August 18, 2016, and became effective on September 19, 2016.² The revisions include modifications of the milestone requirements in Section 25.164 for space station licensees or holders of U.S. market access grants, and a change to the surety bond provision in Section 25.165.³ This Public Notice updates and explains the procedures for complying with the revised milestone and bond provisions.⁴

Under the revised rules, the Commission eliminated all of the space station construction milestones, except the requirement to bring a space station into operation at the assigned location within five years after grant for a geostationary orbit (GSO) space stations, and within six years for non-geostationary orbit (NGSO) space stations.⁵

Within 30 calendar days after grant of a space station application or petition for U.S. market access, the grantee must file a surety bond in the specified penal amount payable through the Federal Communications Commission to the United States Treasury (Obligee). Filing is accomplished by completing all required steps in the International Bureau Filing System (IBFS) or by submitting the original of the bond to the designated filing location, below. Specifically, to file the surety bond with the Commission electronically via IBFS, found at <http://fcc.gov/ibfs>, the grantee must complete the transmittal screen by providing its name, FCC Registration Number, satellite application file number, call

¹ [Comprehensive Review of Licensing and Operating Rules for Satellite Services, Second Report and Order, 30 FCC Rcd 14713 \(2015\) \(Second Report and Order\), corrected, 30 FCC Rcd 14713 \(2016\) \(Second Report and Order\).](#)

² [Comprehensive Review of Licensing and Operating Rules for Satellite Services, 81 FR 55316 \(Aug. 18, 2016\).](#)

³ 47 CFR §§ 25.137(d)(4), 25.165.

⁴ This Public Notice does not address the application-stage bond requirement at the initial step of the optional two-step application process adopted in the Second Report and Order. *Second Report and Order*, 30 FCC Rcd at 14850, 47 CFR § 25.165(f).

⁵ 47 CFR § 25.164 (a) and (b).

sign of the satellite system, and a copy of the surety bond in PDF format. In the alternative, the grantee may mail or deliver the original of the bond to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554 (Attention: Chief, Satellite Policy Branch). The bond will include the bond number, grantee's name, FCC Registration Number, satellite application file number, and call sign of the satellite system, and include full identification of the grantee (principal on the bond), the surety, and the United States Treasury as obligee. Each bond will include the name, mailing address, and telephone of the point of contact in the event of a default. Surety bonds are due no later than 12:00 midnight, Eastern Time, at the end of the 30th day after the date of grant, except if that day is a non-business day, the filing period may be extended to the next business day.

The bond must be procured from a surety company deemed acceptable within the meaning of 31 U.S.C. § 9304 *et seq.*, and the surety bond must name the U.S. Treasury as the obligee - beneficiary in the event of default by the licensee or the holder of U.S. market access.⁶

The bond must cover the potential payment liability, which increases from the date of the grant to the date of any default.⁷ The surety bond payment liability in the event of default is calculated pursuant to the formulas in Section 25.165.⁸ At any given time, the surety bond must be sufficient to cover the amount due to the U.S. Treasury in the event of default. To satisfy its surety bond obligation, a licensee or holder of grant of U.S. market access may, for example, submit an initial surety bond of at least \$1 million, with provisions specified in the bond to increase the bond amount on a daily basis as liability increases. For a minimum surety bond with automatic liability increases, the grantee together with surety will provide, at least annually on the anniversary of the grant of the authorization, an amended copy of the bond reflecting the increase. In the alternative, the grantee may submit a surety bond with a fixed value to cover the potential liability for an upcoming period of time, such as one year, and then submit a new bond in an increased amount prior to the end of that time period, to cover potential liability during the next year.⁹

A licensee or holder of grant of U.S market access will be considered in default, as of the date of surrender, if it surrenders its license or grant of U.S. market access before meeting the milestone requirement, or if it fails to meet any milestone deadline set forth in Section 25.164 and, at the time of milestone deadline, the licensee has not provided a sufficient basis for extending the milestone. Notice of default may be in the form of an order, public notice, or notice of action taken by the Commission or by

⁶ 47 CFR § 25.165(b).

⁷ The Commission retained the previous maximum liability of \$3 million for GSO systems, and \$5 million for NGSO systems.

⁸ 47 CFR § 25.165 (a)(1), (2):

For an NGSO licensee or holder of a grant of U.S. market access, the amount of the surety bond must require payment in the event of a default in an amount, at a minimum, according to the following formula:
 $A = \$1,000,000 + \$4,000 * D / 2192$, where A is the amount to be paid and D is the lesser of 2192 or the number of days that elapsed from the date of the license grant until the date when the license is surrendered.

For a GSO licensee or holder of a grant of U.S. market access, the amount of the surety bond must require payment in the event of a default in an amount, at a minimum, according to the following formula:
 $A = \$1,000,000 + \$2,000 * D / 1827$, where A is the amount to be paid and D is the lesser of 1827 or the number of days that elapsed from the date of the license grant until the date when the license is surrendered.

⁹ Using an annual adjustment, for example, GSO operators would file an initial bond of \$1.4 million with annual increases of \$400,000 until the milestone is satisfied.

delegated authority, including a demand for payment, or by the grantee's action to surrender or return the authorization. In the event of a default, the surety bond will be due and payable upon written notice from the Commission's Office of Managing Director (OMD).

Compliance with the milestone requirement may be demonstrated by certifying that the space station(s) in question has, or have, been launched and placed into the authorized orbital location or non-geostationary orbit(s) and that in-orbit operation of the space station(s) has been tested and found to be consistent with the terms of the authorization or grant of U.S. market access.¹⁰ A licensee or holder of U.S. market access will not be allowed to release its bond until the Commission releases a public notice stating that the milestone requirement has been met or waived.

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¹⁰ 47 CFR § 25.165(c).