

### **3.7-4.2 GHz Freeze and Filing Window Q&A**

On April 19, 2018, the International, Public Safety and Homeland Security, and Wireless Telecommunications Bureaus (Bureaus) issued a Public Notice (DA 18-398) announcing a temporary freeze on applications for new or modified fixed satellite service earth stations and fixed microwave stations in the 3.7-4.2 GHz band.<sup>1</sup> The American Cable Association, by letter dated Apr. 30, 2018 (GN Docket No. 17-183), asked the Bureaus to provide clarification of that Public Notice.<sup>2</sup> SES Americom, Inc. and Intelsat License LLC, by letter dated May 8, 2018 (GN Docket Nos. 17-183 and 18-122), expressed support for the clarifications requested by ACA.<sup>3</sup> In response to these requests and other requests for clarification, the following Q&As are intended solely to summarize certain provisions of the Public Notice and provide guidance on how to file earth stations license and registration applications during the 90-day filing window pursuant to the Public Notice.

- ***Does the Public Notice waive the application filing fee?*** No. The Commission is required by statute to collect application filing fees and cannot grant blanket waivers of such fees. Application fee waivers or deferrals may be requested by applicants and may be granted but only on a case-by-case basis if the applicant demonstrates good cause and where such a waiver would promote the public interest, subject to the provisions of Section 1.1119 of the Commission's rules. *See, e.g., Primosphere Limited Partnership, MO&O, 24 FCC Rcd 14780, 14783 (2009)* (Commission grants application fee waivers only upon a showing of "extraordinary and compelling circumstances"). In addition, Section 1.1116 of the Commission's rules provides for certain exemptions from application fees.
- ***What happens if my application is granted without a coordination report?*** Earth stations authorized without a coordination report during the freeze will be subject to a condition that they are not entitled to protection from FS microwave links, including currently licensed FS operations. However, the freeze on new FS microwave licenses or major modifications of existing licenses eliminates the possibility of new FS operators deploying in the 3.7-4.2 GHz band during the freeze. Consequently, the coordination report is unnecessary to protect earth stations during the freeze.
- ***Will I have another opportunity to file a coordination report?*** Upon announcing the termination of the freeze, the International Bureau may require or permit registrants or licensees who filed applications during the 90-day window without a coordination report to file such a report as required by the Commission's rules. The scope of interference protection after the freeze will depend upon future rulemaking or other actions by the Commission.
- ***What if I file a coordination report with my application during the 90-day window?*** During the 90-day window, the International Bureau will process applications to register or license an earth

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<sup>1</sup> *Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band; 90-Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, GN Docket Nos. 17-183, 18-122, Public Notice, DA 18-398 (IB, PSHSB, WTB Apr. 19, 2018), 2018 WL 1898716.

<sup>2</sup> Letter from Pantelis Michalopoulos, Counsel for American Cable Association, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 17-183, 18-122 (filed Apr. 30, 2018).

<sup>3</sup> Letter from Susan H. Crandall, Associate General Counsel to Intelsat Corporation, and Gerry Oberst, President of SES Americom, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 17-183, 18-122 (filed May 8, 2018).

station that include a coordination report in accordance with the Commission's current rules. After the close of the 90-day window, applicants will not be able to file a coordination report for the duration of the freeze. However, as noted above, the filing of such a report is unnecessary during the freeze.

- ***Why doesn't the Public Notice specify that earth stations authorized during the freeze will be treated the same as those authorized before the freeze in any future Commission action?*** As stated in the Public Notice, the Bureaus announced the freeze to preserve the current landscape of authorized operations in the 3.7-4.2 GHz band pending future Commission action in GN Docket Nos. 17-183 and 18-122 (*3.7-4.2 GHz Proceeding*). The final regulatory status for earth stations authorized before, during, or after the freeze may be determined by the Commission in that proceeding. The Bureaus cannot prejudice or predict how the Commission will decide to treat earth stations, whether authorized before or after the freeze, as part of the *3.7-4.2 GHz Proceeding*.
- ***What is the benefit of filing an application during the 90-day window?*** In the *3.7-4.2 GHz Proceeding*, the Commission is considering, among other things, whether to provide for more intensive use of the C-band by reallocating some or all of the band from FSS use to mobile terrestrial use or providing for more intensive fixed terrestrial use. There is significant debate in the record about the degree to which the C-band is currently being used for FSS operations. Filing applications to register or license earth stations during the 90-day window will serve to provide additional information to the Commission on this question.

As the public notice advised all potential applicants, the Commission may, for purposes of further action in the *3.7-4.2 GHz Proceeding*, choose to take into consideration only those earth stations that are licensed, registered, or have pending applications for license or registration on file in IBFS as of July 18, 2018. The Commission currently has limited information about the operations of unlicensed and unregistered earth stations in this band.

All earth stations, regardless of whether or not they are authorized by the Commission, may be subject to any rule changes that the Commission may adopt in the future, in the light of information in the record about the nature and extent of existing uses of the band.

- ***Is there any guidance available to help complete and file earth station license and registration applications on FCC Form 312 and Schedule B?*** Yes. The Commission has a number of resources to help applicants complete earth station applications:
  - [http://licensing.fcc.gov/myibfsdocs/Filing\\_Instructions.html](http://licensing.fcc.gov/myibfsdocs/Filing_Instructions.html)
  - <https://www.fcc.gov/research-reports/guides/frequently-asked-questions-faq-processing-earth-station-applications>

In addition to that guidance, we advise applicants to consider the following points when completing earth station applications:

- For earth stations subject to the freeze that are submitting applications during the 90-day filing window, we will not accept for filing any earth station application filed on FCC

Form 312 EZ.

- We recommend that earth station coordinates be filed using the WGS84 reference coordinate system. When completing Form 312 Schedule B, applicants should select “N/A” in the coordinate datum box “E13.” Applicants should then either use box 43 of Form 312 to provide coordinates based on the WGS84 datum, or provide the coordinates in an exhibit attached to the application.

For further information on completing Form 312 or using IBFS, please contact the IBFS Helpline at (202) 418-2222, or [IBFSINFO@fcc.gov](mailto:IBFSINFO@fcc.gov); Paul Blais at (202) 418-7274 or [Paul.Blais@fcc.gov](mailto:Paul.Blais@fcc.gov); or Kathleen Campbell at (202) 418-0753, or [Kathleen.Campbell@fcc.gov](mailto:Kathleen.Campbell@fcc.gov).

- ***What if I have additional concerns about the freeze?*** The Commission currently has an open proceeding in which it is considering opportunities for new services in the 3.7-4.2 GHz band.<sup>4</sup> Interested parties that may be affected by the filing freeze or future Commission action in the 3.7-4.2 GHz band are encouraged to file comments so that the Commission may consider them in this proceeding. Comments can be filed electronically through the FCC’s Electronic Comment Filing System (ECFS), available through the following URL: <https://www.fcc.gov/ecfs/filings>.

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<sup>4</sup> See *Expanding Flexible Use of the 3.7 GHz to 4.2 GHz Band; Wireless Telecommunications Bureau, International Bureau, and Office of Engineering and Technology Establish GN Docket No. 18-122*, GN Docket No 18-122, Public Notice, DA 18-396 (WTB, IB, OET Apr. 19, 2018), 2018 WL 1898714.