

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Expanding Flexible Use of the 3.7 to 4.2 GHz Band) GN Docket No. 18-122
)

ORDER

Adopted: June 12, 2020

Released: June 12, 2020

By the Chief, Wireless Telecommunications Bureau:

1. By this Order, the Wireless Telecommunications Bureau (Bureau) denies in its entirety a request filed by ACA Connects (America’s Communications Association or ACA) and NCTA (The Internet & Television Association or NCTA) (jointly, Requestors), asking the Bureau to: “(1) extend the comment deadline on the Lump Sum PN by six days, until June 22, to enable parties to review satellite operator transition plans and ensure that their comments reflect that information; (2) publish the space station operators’ transition plans on its website immediately after they are received, either on the evening of June 12 or the morning of June 13; and (3) disclose the assumptions and methodology underlying its proposed lump sum payment amounts.”¹

2. In the *3.7 GHz 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 Fixed Satellite Service (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 megahertz of the C-band.⁴

3. 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

¹ ACA and NCTA, Joint Request for Extension of Time and to Disclose Lump Sum Assumption and Methodology, GN Docket No. 18-122, at 3-4 (filed June 9, 2020), <https://ecfsapi.fcc.gov/file/10609847302431/060920%2018-122%20Joint%20Lump%20Sum%20PN%20Extension%20Request%206%209%2020%20FINAL.pdf> (Extension Request).

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 *Id.* at 2391, 2465-66, paras. 111, 326; 47 CFR § 27.4.

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”).

cost category schedule.⁵ The Bureau sought comment on the Preliminary Cost Catalog in the *Cost Catalog Public Notice*.⁶ After considering the comments received in response to the *Cost Catalog Public Notice*, on June 4, 2020, the Bureau released a Public Notice inviting additional comment on the preliminary lump sum categories and payment amounts available to FSS incumbent earth station operators as part of the C-band transition.⁷

4. Requestors filed a Joint Request for Extension of Time and to Disclose Lump Sum Assumptions and Methodology (Extension Request) asking for an extension of time to file comments, and that WTB disclose lump sum assumptions and methodology.⁸ Requestors also ask that the Commission make Transition Plans available immediately after they are filed.⁹ We deny the Extension Request in its entirety.

5. In support of their request for an extension, Requestors argue that interested stakeholders should have the opportunity to review the space station operators' Transition Plans before commenting on the lump sum proposals.¹⁰ It is the policy of the Commission that extensions of time shall not be routinely granted and Requestors' arguments do not clear that high bar.¹¹ ACA previously requested that the Bureau wait to finalize the Cost Catalog and lump sum categories until after space station operators submit their final Transition Plans on August 14, 2020, and NCTA requested that the Bureau wait until after June 12, 2020.¹² In the *Lump Sum Public Notice*, the Bureau considered these requests and elected to provide an additional opportunity for interested stakeholders to file comments beyond the requirements established in the *3.7 GHz Report and Order*.¹³ In addition, the Bureau noted that incumbent earth station operators will be able to make their lump sum elections after space station operators have filed their Transition Plans and those plans have been made available for public comment, which would allow earth station operators to consider the Transition Plans in making their lump sum elections should they choose to do so.¹⁴ Stakeholders have not provided any new information or arguments to support their request to revisit the timing of the comments on the lump sum payments or categories in relation to the Transition Plans. Therefore, we deny the request for an extension.

6. Next, the Requestors ask that the Commission "publish the space station operators'

⁵ *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*).

⁶ *Id.*

⁷ *Wireless Telecommunications Bureau Seeks Comment on Optional Lump Sum Payments For 3.7-4.2 GHz Band Incumbent Earth Station Relocation Expenses*, Public Notice, DA 2-586, at 3 (WTB June 4, 2020) (*Lump Sum Public Notice*); see also *Wireless Telecommunications Bureau Seeks Comment on Optional Lump Sum Payments for 3.7-4.2 GHz Band Incumbent Earth Station Relocation Expenses*, 85 Fed. Reg. 35086 (June 8, 2020); *Wireless Telecommunications Bureau Seeks Comment on Optional Lump Sum Payments for 3.7-4.2 GHz Band Incumbent Earth Station Relocation Expenses*, 85 Fed. Reg. 35653 (June 11, 2020) (clarifying that comments are due June 15).

⁸ Extension Request at 2.

⁹ *Id.*

¹⁰ Extension Request at 4.

¹¹ 47 CFR § 1.46(a).

¹² ACA Comments (rec. May 14, 2020) at 7; NCTA Comments (rec. May 14, 2020) at 30.

¹³ *Lump Sum Public Notice* at 3, n.13. The *3.7 GHz Report and Order* only required WTB to issue a Public Notice announcing that the lump sum will be made available. *3.7 GHz Report and Order*, 35 FCC Rcd at 2428, para. 203.

¹⁴ *Lump Sum Public Notice* at 3, n.13. See *3.7 GHz Report and Order*, 35 FCC Rcd at 2428, 2457-59, paras. 203, 302, 305-06 (discussing transition deadlines).

transition plans on its website immediately after they are received, either on the evening of June 12 or the morning of June 13.”¹⁵ The Transition Plans will be available for public review in the Commission’s Electronic Comment Filing System (ECFS) consistent with the Commission’s usual practice, and as required by the rules adopted by the Commission in the *3.7 GHz Report and Order*.¹⁶ Requestors have provided no clear and convincing justification as to why a deviation from the Commission’s usual practices is necessary to serve their goals, and we find that publication in the ECFS docket for this proceeding provides Requestors with the desired opportunity to review space station operators’ Transition Plans.

7. Finally, the Extension Request asks that the Bureau “disclose the assumptions and methodology underlying its proposed lump sum payment amounts.”¹⁷ The *Lump Sum Public Notice* outlines the methodology used to calculate lump sum amounts and seeks comment on the assumptions made regarding the average transition for each class of earth station.¹⁸ The *Lump Sum Public Notice*, in combination with the Preliminary Cost Catalog, provides sufficient information for stakeholders to provide informed comment on the proposed cost categories and lump sum amounts. We thus decline to take further action in this regard.¹⁹

8. Accordingly, IT IS ORDERED, pursuant to sections 0.204, 0.291, and 1.46 of the Commission’s rules, 47 CFR §§ 0.204, 0.291, 1.46, that the Joint Request for Extension of Time and to Disclose Lump Sum Assumptions and Methodology filed by Requestors on June 9, 2020 is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Donald Stockdale
Chief
Wireless Telecommunication Bureau

¹⁵ Extension Request at 3-4.

¹⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457-58, para. 302-03 & n.692; 47 CFR § 27.1412(d).

¹⁷ Extension Request at 4.

¹⁸ *Lump Sum Public Notice* at 4.

¹⁹ *Id.*