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WIRELESS TELECOMMUNICATIONS BUREAU OPENS WINDOW FOR ELIGIBLE C-BAND SATELLITE OPERATORS TO ACCOUNT FOR FINAL PHASE I UPDATES TO THEIR TRANSITION PLANS

GN Docket No. 18-122; GN Docket No. 20-173

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) opens a limited filing window and directs eligible Fixed Satellite Service (FSS) space station operators in the 3.7-4.2 GHz band (C-band) to submit amendments to their final Transition Plans, which were filed August 14, 2020 and in some cases updated on October 28, 2020 and July 7, 2021 during earlier amendment windows.¹ During this limited filing window, such space station operators are required to account for any updates to the information provided in such Transition Plans since July 7, 2021. This window also provides a final opportunity for eligible space station operators to adjust their Transition Plans for Phase I of the C-band transition.

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 of the band 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 would reimburse the reasonable relocation costs of eligible FSS space station operators, incumbent FSS earth station operators, and incumbent Fixed Service licensees (collectively, incumbents) to transition out of the band.³

¹ *Wireless Telecommunications Bureau Opens Window For Eligible C-Band Satellite Operators To Account For Earth Station Lump Sum Elections In Their Transition Plans*, GN Docket Nos. 18-122 and 20-173, Public Notice, 35 FCC Rcd 10584 (WTB 2020) (*First Transition Plan Amendment Window PN*); *Wireless Telecommunications Bureau Opens Window For Eligible C-Band Satellite Operators To Account For Updates in Their Transition Plans*, GN Docket No. 18-122 and 20-173, Public Notice (WTB 2021) (*Second Transition Plan Amendment Window PN*).

² *Expanding Flexible Use of the 3.7-4.2 GHz Band*, GN Docket No. 18-122, 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. The *3.7 GHz Band Report and Order* defines the incumbents that will be eligible to be reimbursed for their reasonable relocation costs. An eligible space station operator is defined as “an incumbent space station operator” that “must have demonstrated, no later than February 1, 2020, that it has an existing relationship to provide service via C-band satellite transmission to one or more incumbent earth stations in the contiguous United States.” *3.7 GHz Report and Order*, 35 FCC Rcd at 2426, para. 200; 47 CFR § 27.1411(b)(1)-(2). Incumbent earth stations are defined as those Fixed Satellite Service earth stations that “(1) were operational as of April 19, 2018; (2) are licensed or registered (or had a pending application for license or registration) in the IBFS database as of November 7, 2018; and (3) have timely certified, to the extent required by the Order adopted in FCC 18-91 (as we clarify . . . to include certain renewal applications and license and registration applications filed through November 7, 2018), the accuracy of information on file with the

(continued....)

The *3.7 GHz Report and Order* established a deadline of December 5, 2025, by which incumbent space station operators were to complete the transition of their operations to the upper 200 megahertz of the band, but it also provided an opportunity for accelerated clearing of the band by allowing eligible space station operators to voluntarily commit to relocate on a two-phased accelerated schedule, with a Phase I deadline of December 5, 2021, and a Phase II deadline of December 5, 2023.⁴ All five eligible space station operators elected accelerated relocation.⁵ By electing accelerated relocation, the eligible space station operators, among other things, have voluntarily committed to perform all the tasks necessary to enable any incumbent earth station that receives or sends signals to a space station owned by that operator to maintain that functionality.⁶

The *3.7 GHz Report and Order* required eligible space station operators to submit to the Commission and make available for public review a Transition Plan describing the necessary steps and estimated costs to transition existing services out of the lower 300 megahertz of C-band spectrum.⁷ Since all eligible space station operators elected accelerated relocation, such operators were required to describe in their Transition Plans the number and location of earth stations receiving the space station operators' transmissions and all transition actions that will be necessary at each earth station location to transition its services to the upper portion of the band.⁸ Initial Transition Plans were filed on June 19, 2020 and final Transition Plans were due August 14, 2020.⁹ The *3.7 GHz Report and Order* dictated that eligible space

Commission.” *3.7 GHz Report and Order*, 35 FCC Rcd at 2392, para. 116; 47 CFR §§ 25.138(c), 27.1411(b)(3). Incumbent Fixed Service licensees are defined as “[i]ncumbent licensees of point-to-point Fixed Service links that relocate out of the 3.7-4.2 GHz band by December 5, 2023.” *3.7 GHz Report and Order*, 35 FCC Rcd at 2465, para. 326. The *3.7 GHz Band Report and Order* provides limited instances in which earth stations outside of the contiguous United States are eligible for reimbursement. *See id.* at 2428, para. 204 (providing for reimbursement for expenses of earth stations located outside of the contiguous United States to the extent they can demonstrate that the system modifications for which reimbursement is sought is a direct result of the C-band transition). The process by which costs will be determined to be reimbursable is defined in 47 CFR § 25.1416. The *3.7 GHz Report and Order* also established that incumbent FSS earth station operators may opt out of the formal relocation process and, in lieu of reimbursement, elect to receive a lump sum payment based on an amount to be announced by the Bureau. *3.7 GHz Report and Order*, 35 FCC Rcd at 2427-28, paras. 202-03. Earth station operators electing the lump sum are “responsible for performing any necessary actions” to accommodate the changes in the C-band. *Id.* at 2428, para. 203. The Bureau announced the lump sum amounts on July 30, 2020, and lump sum elections were due on September 14, 2020. *See Wireless Telecommunications Bureau Releases Final Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses and Announces Process and Deadline for Lump Sum Elections*, GN Docket No. 18-122, IB Docket No. 20-205, Public Notice, 35 FCC Rcd 7967 (WTB 2020) (*Lump Sum Public Notice*); Order Granting Extension Request, GN Docket No. 18-122, IB Docket No. 20-205, 35 FCC Rcd 8856 (WTB 2020) (extending the original August 31, 2020 deadline for lump sum elections until September 14, 2020). The International Bureau issued a final list of accepted lump sum elections on November 30, 2020. *International Bureau Completes Review of Lump Sum Elections*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 20-1294 (IB Oct. 30, 2020); *International Bureau Issues Updated Lump Sum Election Table*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 20-1421 (IB Nov. 30, 2020). *See also Incumbent Earth Station List December 2020 Erratum*.

⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2408, para. 155; 47 CFR § 27.1412(b)(1)-(2).

⁵ *Wireless Telecommunications Bureau Announces Accelerated Clearing in the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 5517 (WTB 2020).

⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 292.

⁷ *Id.* at 2457-59, paras. 302-06.

⁸ *Id.* at 2458, para. 303.

⁹ *Id.* at 2457, 2459, paras. 302, 306; *see also Expanding Flexible Use of the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Order Granting Extension, 35 FCC Rcd 5866 (WTB 2020) (granting brief extension of the original June 12, 2020 deadline for filing Transition Plans).

station operators may modify their Transition Plans after August 14, 2020 only with the approval of the Commission.¹⁰

In September 2020, pursuant to authority delegated to it by the Commission,¹¹ the Bureau opened a limited window for eligible space station operators to modify their Transition Plans, to the extent necessary, no later than October 28, 2020, to allow space station operators to remove any associated earth stations that elected the lump sum option and to accurately account for any updates to the Incumbent Earth Station List released by the International Bureau at that time.¹² In opening this earlier window and inviting the filing of such modified Transition Plans, the Bureau, also pursuant to its delegated authority, approved the eligible space station operators' substitution of any such Transition Plans—to the extent they were modified for these purposes and filed within the designated window—for their previously-filed Transition Plans.¹³

Eligible space station operators are required to file with the Commission quarterly status reports, starting December 31, 2020, detailing their efforts to ensure a timely transition.¹⁴ In their quarterly status reports, several eligible space station operators purported to include updates to their final Transition Plans.¹⁵ As noted above, eligible space station operators are permitted to amend their Transition Plans only with Commission approval.¹⁶ On June 23, 2021, the Bureau thus opened a limited window for eligible space station operators to submit, as needed, updates to their final Transition Plans including, *inter alia*, all previous updates the submitting eligible space station operator may have included in their quarterly status reports, to the extent those updates remained accurate, as well as updates reflecting

¹⁰ *3.7 GHz Report and Order*, 35 FCC Rcd at 2459, para. 306.

¹¹ See 47 CFR § 27.1412(h) (delegating to the Bureau “the role of providing clarifications or interpretations to eligible space station operators of the Commission’s orders for all aspects of the transition”); 47 U.S.C. § 155(c).

¹² See *First Transition Plan Amendment Window PN*.

¹³ As with the Transition Plans generally, such approval of the substitution of the modified Transition Plans did not constitute a ruling on the substance of any of the Transition Plans. The *3.7 GHz Report and Order* does not require Commission or Bureau approval of the Transition Plans. Rather, the Bureau’s action merely allowed an eligible space station operator to rely on such a modified Transition Plan to the same extent it would have been able to rely on its Transition Plan as originally filed.

¹⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2461, para. 316.

¹⁵ Letter from Alfred M. Mamlet and Matthew R. Friedman, Counsel to Embratel, GN Docket No. 18-122, at 2 (filed Dec. 28, 2022) (Embratel Dec. 2020 Quarterly Report); Letter from Carlos M. Nalda, LMI Advisors for Eutelsat S.A. and Wladimir Bocquet, Eutelsat S.A. to Marlene H. Dortch, Secretary, FCC GN Docket No. 18-122 at 1 (filed Dec. 31, 2021) (Eutelsat Dec. 2020 Quarterly Report); Letter from Michele V. Bryan, Secretary, Intelsat License LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed Dec. 28, 2020) (Intelsat Dec. 2020 Quarterly Report); Letter from Telesat Canada, GN Docket No. 18-122 (filed Dec. 21, 2021) (Telesat Dec. 2020 Quarterly Report); Letter from Petra A. Vorwig, Vice President, SES Americom Inc. to Marlene H. Dortch, GN Docket No. 18-122 Secretary, FCC, (filed Dec. 29, 2021) (SES Dec. 2020 Quarterly Report); Letter from Alfred M. Mamlet and Matthew R. Friedman, Counsel to Embratel, GN Docket No. 18-122, at 2 (filed March 29, 2021) (Embratel March 2021 Quarterly Report); Letter from Carlos M. Nalda, LMI Advisors for Eutelsat S.A. and Wladimir Bocquet, Eutelsat S.A. to Marlene H. Dortch, Secretary, FCC GN Docket No. 18-122 at 1 (filed March 31, 2021) (Eutelsat March 2021 Quarterly Report) (“The revised Exhibits incorporate adjustments to reflect the current status of Eutelsat’s transition plans.”); Letter from Michele V. Bryan, Secretary, Intelsat License LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed March 31, 2021) (Intelsat March 2021 Quarterly Report); Letter from Telesat Canada, GN Docket No. 18-122 (filed March 31, 2021) (Telesat March 2021 Quarterly Report); Letter from Petra A. Vorwig, Vice President, SES Americom Inc. to Marlene H. Dortch, GN Docket No. 18-122 Secretary, FCC, (filed March 26, 2021) (SES March 2021 Quarterly Report).

¹⁶ To date no eligible space station operator has formally sought approval to amend its Transition Plan since October 2020. As such, the Commission does not recognize any of the proposed updates in these quarterly status reports as formal amendments of the Transition Plans.

changes to the Incumbent Earth Station List, as announced by the International Bureau.¹⁷

In the *Second Transition Plan Amendment Window PN*, the Bureau anticipated opening an additional Transition Plan amendment window this year to allow eligible space station operators to finalize the details of their Phase I plans.¹⁸ Pursuant to the authority delegated to the Bureau in the *3.7 GHz Report and Order*, we are opening a new, limited window, during which eligible space station operators are directed to file modified Transition Plans to accurately account for any updates since July 2021. If there are any residual updates that an eligible space station operator may have included in their quarterly status report for the period ending June 30, 2021, they should now be formally integrated into such operator's Transition Plan. As in the *Second Transition Plan Amendment PN*, any modifications to the last formally filed Transition Plan (*e.g.*, the last eligible space station operator's Transition Plan filed in response to one of the Bureau's earlier amendment windows), whether based on unreported developments or reflecting updates that were included in a quarterly status report update, should be accompanied by an explanation of the changes.¹⁹ With respect to any earth station antenna that is still listed as an incumbent earth station on the International Bureau's most recent Incumbent Earth Station List, if an eligible space station operator had claimed such earth station antenna in its last formally filed Transition Plan but now disclaims responsibility for that earth station antenna in an amendment filed pursuant to this Public Notice, the eligible space station operator must explain in its modified Transition Plan the reason for that change, and, working with the Relocation Coordinator and, as necessary, other satellite operators, describe whether or how the earth station antenna is being claimed and transitioned going forward.²⁰ Similarly, regarding any associated earth station antenna that has been included on an active 90-day public notice to remove it from the most recent Incumbent Earth Station List, the eligible space station operator must account for such antennas on its Transition Plan, but may include an explanation for why the eligible space station operator anticipates that the antenna does not need to be transitioned.

We reiterate that an eligible space station operator remains responsible for transitioning any earth station antenna that receives that space station's feed, regardless of whether the earth station has multi-feed antennas that receive signals from other eligible space station operators.²¹ Accordingly, the fact that the Transition Plan of one eligible space station operator lists an incumbent earth station antenna does not mean that the same earth station antenna should not also be listed in another eligible space station operator's Plan. To ensure that each Transition Plan clearly reflects the full current responsibilities of the eligible space station operator that has submitted that Plan, we are therefore requiring that every eligible space station operator revise its Transition Plan to the extent necessary to include each such earth station antenna and identify it as a station that receives multiple feeds (*i.e.*, feeds from the eligible space station

¹⁷ *Second Transition Plan Amendment Window PN* at 1. On June 22, 2021, the International Bureau released a further updated list of incumbent earth stations. See *International Bureau Releases Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 21-731 (IB June 22, 2021) (*Incumbent Earth Station Further Updated List Public Notice*). The *Second Transition Plan Amendment PN* directed eligible space station operators to file modified Transition Plans, to the extent necessary, to accurately account for any updates since October 2020, including those updates necessitated by the International Bureau's June 22, 2021 updated Incumbent Earth Station List. *Second Transition Plan Amendment Window PN* at 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.*

²⁰ Regardless of any amendments to the Transition Plans that filed, eligible space station operators still bear responsibility under the *3.7 GHz Report and Order* to transition all associated earth stations by the relevant deadlines. *3.7 GHz Report and Order*, 35 FCC Rcd at 2414, para. 171; see 47 CFR § 27.1412(b)(1)-(2).

²¹ *Second Transition Plan Amendment Window PN* at 4.

operator submitting the Plan and from one or more other eligible space station operator(s)).²² To facilitate the transparency and review of the transition status of individual earth station antennas and feeds, eligible space station operators are directed to provide this information in spreadsheets formatted consistently with the Incumbent Earth Station List. Eligible earth station operators are further instructed to provide additional details, as described above, when an operator is transitioning only a subset of the total quantity listed in an individual record in the List and when an operator is transitioning only a subset of the feeds of a single multi-feed antenna.

All amendments, explanations, and updated final Transition Plans must be filed in GN Docket Nos. 18-122 and 20-173 no later than **September 30, 2021**.

The Bureau does not plan to open another Transition Plan amendment window prior to the Phase I transition deadline. As such, absent further instructions from the Bureau, no additional amendments or updates to the Transition Plans for Phase I will be accepted after this date. Eligible space station operators should confirm that all associated earth station antennas and feeds for which they are responsible for Phase I are listed in their respective Plans. All Transition Plans should identify and address earth stations and antennas in the following categories: (1) antennas and feeds for which the transition involves circumstances beyond the control of the eligible space station operator and therefore have been subject to a transition delay notice;²³ (2) antennas and feeds that have been included on an active 90 day public notice or are otherwise pending removal from the most recent Incumbent Earth Station list;²⁴ and (3) antennas and feeds subject to an agreement regarding the transition between the eligible space station operator and the earth station operator.²⁵ Our expectation is that all earth station antennas and feeds relating to Phase I of the C-band transition from the most recent Incumbent Earth Station list will be claimed on one or more Transition Plans.

Further guidance about Transition Plan amendments relative to Phase II of the C-band transition will be provided at a future date. Eligible space station operators are free to update their Phase II plans during the current window. We will not, however, accept or consider as Transition Plan amendments any updates filed with an eligible space station operator's quarterly status report. To the extent that an eligible

²² *Id.* A Transition Plan does not have to identify the other eligible space station operator(s) that also provide service to a multi-feed antenna.

²³ The *3.7 GHz Report and Order* stated, "Only incumbent earth station transition delays that are beyond the control of the incumbent space station operators will not impact their eligibility for the accelerated relocation payment. However, to partake of this exception, we require that any eligible space station operator submit a notice of any incumbent earth station transition delays to the Wireless Telecommunications Bureau within seven days of discovering an inability to accomplish the assigned earth station transition task. Such a request must include supporting documentation to allow for resolution as soon as practicable and must be submitted before the Accelerated Relocation Deadlines." *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 294. The filing of such notice in circumstances that the eligible space station operator believes are likely to jeopardize its ability to meet the Phase I deadline does not, in and of itself, remove an earth station, antenna, or feed from said operator's Transition Plan. Further, the eligible space station operator remains responsible for transitioning the earth station, antenna, or feed at issue until the Certification process is complete. Any such notices and supporting information should be publicly filed in GN Docket No. 21-320 and be simultaneously provided to the affected earth station operator. The Bureau will take such notices, and the weight, if any, they should be accorded, into account when determining whether the eligible space station operator has met its transition obligations for ARP purposes.

²⁴ See *International Bureau Release Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, IB Docket No. 2-205, GN Docket No. 20-305, Public Notice, DA 21-731 (IB June 22, 2021).

²⁵ Such agreements may, for example, reflect that the earth station operator, whose station is associated with the eligible space station operator and included on its Transition Plan, has relieved said eligible space station operator of any obligation to effectuate the transition (in whole or in part, as per the agreement) of the subject earth station. Assertions regarding such agreements are not presumptively valid and all such assertions will be assessed by the Bureau during its Certification of Accelerated Relocation review process.

space station operator determines that exceptional circumstances necessitate a formal amendment to their Transition Plan for Phase II outside an announced amendment window, they are directed to consult with the Bureau for further instructions and any additional requirements before submitting any such amendment.

For further information concerning this Public Notice, please contact Susan Mort, Wireless Telecommunications Bureau, (202) 418-2429, Susan.Mort@fcc.gov.

Action by Acting Chief, Wireless Telecommunications Bureau.

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