

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; GN Docket No. 21-320
Phase I Certification of Accelerated Relocation of)
SES Americom, Inc., as amended)

ORDER

Adopted: November 24, 2021

Released: November 24, 2021

By the Acting Chief, Wireless Telecommunications Bureau:

1. With this Order, and subject to the conditions described below, the Wireless Telecommunications Bureau (WTB or Bureau) validates the Phase I Certification of Accelerated Relocation (Certification), as amended, filed by SES Americom, Inc. (SES)1 relating to the ongoing transition of the 3.7 GHz band.2

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 of the 3.7-4.2 GHz band (C-band) and into the upper 200 megahertz of the band (i.e., 4.0-4.2 GHz).3 Specifically, 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

1 See SES Americom, Inc., Certification, GN Docket Nos. 18-122 and 21-320 (filed Oct. 1, 2021) (SES Certification); SES Americom, Inc., Amendment, GN Docket Nos. 18-122 and 21-320 (filed Oct. 26, 2021) (SES Amendment). In the instant Order, the Bureau is only considering the showing made in, and validating, the Phase I Certification of Accelerated Relocation filed by SES, as amended. This is without prejudice to any procedures and processes the Bureau may adopt for Phase II Certifications, or any future showing made by SES in conjunction with Phase II of the ongoing transition of the 3.7 GHz band. Furthermore, this Order is without prejudice to other issues that are or may come before the Commission or that the Commission considers properly before other fora.

2 See Expanding Flexible Use of the 3.7 to 4.2 GHz Band, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2456-57, at paras. 297-300 (2020) (3.7 GHz Report and Order).

3 3.7 GHz Report and Order, 35 FCC Rcd at 2345, para. 4.

4 3.7 GHz Report and Order, 35 FCC Rcd at 2408, para. 155; 47 CFR § 27.1412(b)(1)-(2). By the Phase I deadline of December 5, 2021, eligible space station operators must repack any existing services and relocate associated incumbent earth stations throughout the contiguous United States into the upper 380 megahertz of the C-band (3820-4200 MHz), and the operators must provide passband filters to block signals from the 3700-3820 MHz band to associated incumbent earth stations in 46 of the top 50 PEAs. 3.7 GHz Report and Order, 35 FCC Rcd at 2414, para. 171; 47 CFR § 27.1412(b)(1)-(2). By the Phase II deadline of December 5, 2023, eligible space station operators must repack any existing service and relocate associated incumbent earth stations throughout the

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3. By electing accelerated relocation, the eligible space station operators, among other things, voluntarily committed to perform all the tasks necessary to enable any incumbent earth station⁶ that receives or sends C-band signals from or to a space station owned by that operator to maintain that functionality in the upper 200 megahertz of the band.⁷ The *3.7 GHz Report and Order* stated that “[t]o the extent eligible space station operators can meet the Phase I and Phase II Accelerated Relocation Deadlines, they will be eligible to receive the accelerated relocation payments associated with those deadlines.”⁸ Once the Bureau validates an eligible space station operator’s Certification, the relevant Accelerated Relocation Payment (ARP) is to be disbursed by the Relocation Payment Clearinghouse (Clearinghouse).⁹

4. The *3.7 GHz Report and Order* specified that an “eligible space station operator’s satisfaction of the Accelerated Relocation Deadlines will be determined by the timely filing of a Certification of Accelerated Relocation demonstrating, in good faith, that it has completed the necessary clearing actions to satisfy each deadline” and directed WTB to prescribe the form of such Certifications and any challenges by relevant stakeholders.¹⁰ WTB was also directed to establish the process for how any challenges may impact incremental decreases in the ARP.¹¹ Further, “the Bureau, Clearinghouse, and relevant stakeholders will have the opportunity to review the Certification of Accelerated Relocation and identify potential deficiencies,” and if “credible challenges as to the space station operator’s satisfaction of the relevant deadline are made, the Bureau will issue a public notice identifying such challenges.”¹² Absent notice from WTB of deficiencies in the Certification within 30 days of its filing, the Certification will be deemed validated.¹³ Where challenges or deficiencies are found, the Bureau will render a final decision as to the validity of the Certification no later than 60 days from its filing.¹⁴

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contiguous United States into the upper 200 megahertz of the C-band (4.0-4.2 GHz), and the operators must provide passband filters to block signals from the 3700-4000 MHz band to all associated incumbent earth stations in the contiguous United States. *Id.*

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 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 Commission.” *3.7 GHz Report and Order*, 35 FCC Rcd at 2392, para. 116; 47 CFR §§ 25.138(c), 27.1411(b)(3).

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

⁸ *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, paras. 232, 297; 47 CFR § 27.1412(b).

⁹ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 300. Following validation, the Clearinghouse shall promptly notify the 3.7 GHz Service Licensees, who must pay the ARP to the Clearinghouse within 60 days of the notice. *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 300; 47 CFR § 27.1422(c). The Clearinghouse must disburse the ARP to the eligible space station operator within seven (7) days of receipt. *Id.*

¹⁰ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 298; 47 CFR § 27.1412(g).

¹¹ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, paras. 298-99. Should an eligible space station operator miss the Phase I or Phase II deadline, it may still receive a reduced, but non-zero, ARP if it otherwise meets the Certification requirements within six months after the relevant Accelerated Relocation Deadline. *Id.* at 2456, para. 297; 47 CFR § 27.1422(d).

¹² *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 299; 47 CFR §§ 27.1412(g)(1)-(2).

¹³ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 299; 47 CFR § 27.1412(g)(2).

¹⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, paras. 298-99.

5. As directed, on August 4, 2021, the Bureau issued a Public Notice implementing filing procedures for Phase I Certifications and related challenges.¹⁵ The *Phase I ARP Certification Procedures PN* stated that to satisfy the Phase I deadline, the Certification must describe in detail each action that was taken by the eligible space station operator, including the date of completion, in a similar format and content to that operator's Transition Plan.¹⁶ This description should include (but is not limited to):

- The operations that were repacked to satisfy the Phase I deadline;
- The number of new satellites, if any, that the eligible space station operator launched, including the dates of launch, reaching final orbit, and start of operations;
- A description of how services were migrated to the upper portion of the band, including the pre- and post-transition frequencies that each customer occupied and now occupies;
- Any necessary technology upgrades or other solutions, such as video compression or modulation, that the eligible space station operator implemented, described on a per antenna and/or feed basis, as appropriate;
- The number and location of antennas and feeds that were transitioned to satisfy the Phase I deadline, including the actions taken (*e.g.*, retuning and repointing) for each;
- The date of completion of the above items;
- A description of the steps that the eligible space station operator has taken to identify all associated earth stations, antennas, and feeds, and to ensure that they are all are transitioned as of the date of Certification;
- Details relating to any variances from the eligible space station operator's Transition Plan, such as antennas and feeds involving circumstances beyond the control of the eligible space station operator and therefore subject to a transition delay notice,¹⁷ and antennas and feeds that are otherwise pending removal from the most recent Incumbent Earth Station list¹⁸ or subject to an

¹⁵ See *Wireless Telecommunications Bureau Opens a New Docket and Establishes the Process for C-Band Space Station Operator Phase I Certification of Accelerated Relocation*, Public Notice, GN Docket Nos. 18-122 and 21-320, DA 21-957 (WTB Aug. 4, 2021) (*Phase I ARP Certification Procedures PN*). The *Phase I ARP Certification Procedures PN* stated that Challenges to a Certification must be filed in GN Docket No. 21-320 within ten (10) days after the Certification is published in ECFS and the eligible space station operators' replies must be filed in that docket within five (5) days. *Id.* at 5. In the *Phase I Incremental Reduction Comment PN*, also released on August 4, 2021, the Bureau sought comment on how different Phase I Certification scenarios would affect both the challenge process and incremental decreases in the ARP. *Wireless Telecommunications Bureau Seeks Comment on Implementation of the Commission's Incremental Reduction Plan for Phase I Accelerated Relocation Payments*, Public Notice, GN Docket Nos. 18-122 and 21-320, DA 21-958, (WTB Aug. 4, 2021) (*Phase I Incremental Reduction Comment PN*). The Bureau announced its implementation of the final incremental reduction process on September 29, 2021. *Wireless Telecommunications Bureau Announces Implementation of the Commission's Incremental Reduction Plan for Phase I Accelerated Relocation Payments*, Public Notice, GN Docket Nos. 18-122 and 21-320, DA 21-1223 (WTB Sept. 29, 2021) (*Phase I Incremental Reduction Plan PN*).

¹⁶ *Phase I ARP Certification Procedures PN* at 3.

¹⁷ *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 294; 47 CFR 27.1412(b)(3)(i).

¹⁸ 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. 20-205, GN Docket No. 20-305, Public Notice, DA 21-731 (IB June 22, 2021).

agreement regarding the transition between the eligible space station operator and the earth station operator.¹⁹

6. Each eligible space station operator was required to certify that it attests to the truthfulness of the above information included in its Certification and is making the Certification in good faith.²⁰

7. SES submitted its Phase I Certification of Accelerated Relocation on October 1, 2021 and an amendment on October 26, 2021 (Amendment).²¹ The Bureau received no Challenges.

8. SES asserts that it has met all the elements required in the *Phase I ARP Certification Procedures PN*.²² Specifically, SES certifies that it has relocated all of its services out of the 3700-3820 MHz portion of the band in the contiguous United States and made necessary equipment adjustments on all associated incumbent earth stations located in the 46 of the top 50 Partial Economic Areas designated by the Commission for Phase I clearing.²³

9. In its Certification, SES addresses each of the eight criteria set forth in the *Phase I ARP Certification Procedures PN*.²⁴ Regarding the operations that it repacked to satisfy the Phase I deadline, SES states that it transitioned a total of 103 satellite services out of the 3700-3820 MHz portion of the band and specifies the different migration approaches it used along with the pre and post-transition frequencies occupied by each customer.²⁵ SES indicates that it did not launch any new satellites during the Phase I transition.²⁶ In terms of technology upgrades, SES reports that one customer required video compression/modulation technology “for the service to continue to be provided at the same quality level after the relocation.”²⁷

10. According to SES, with the exception of certain stations specifically identified as variances from its Transition Plan, Appendix C.I of its Certification includes all incumbent earth station antennas and feeds for which it claimed transition responsibility for the Phase I deadline.²⁸ SES asserts

¹⁹ 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. *Phase I ARP Certification Procedures PN* at 3-4.

²⁰ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 298; *Phase I ARP Certification Procedures PN* at 4. The Bureau will determine that a Certification has been made in bad faith if, for example, the certifying party makes a statement that is false and if it finds the party did not use due diligence in providing information that is correct and not misleading to the Commission, including taking appropriate affirmative steps to determine the truthfulness of what is being submitted. *In Re Amend. of Section 1.17 of Commission's Rules Concerning Truthful Statements to Comm'n*, 18 FCC Rcd 4016, 4021, at para. 12 (2003). In cases where it is found that the ARP was disbursed based on a Certification that the eligible space station operator had filed in bad faith, the operator may be subject to the additional consequence of having to return some or all of the ARP, depending on the circumstances. *See* 47 CFR § 27.1412(a). Certifications are subject to section 1.17 of the Commission’s rules. 47 CFR § 1.17.

²¹ *See* SES Certification; SES Amendment.

²² *Phase I ARP Certification Procedures PN* at 3-4.

²³ *See* SES Certification at 1.

²⁴ *See Phase I ARP Certification Procedures PN* at 3-4.

²⁵ SES Certification at 2-3; Appendix B.I.

²⁶ SES Certification at 2.

²⁷ SES Certification at 3-4; Appendix B.I.

²⁸ SES Certification at 4-5; SES Amendment at Updated Appendix C.I; *see also* SES Certification at 6-7.

that it installed a passband filter on every feed identified in Appendix C.I except for those incumbent earth station operators that elected to self-install and assumed responsibility for installation of all needed equipment, which SES asked each operator to complete “within the installation windows defined by SES and according to industry best practices.”²⁹

11. SES also provides in various appendices to its Certification the dates of completion on which it asserts specific satellite services and individual incumbent earth stations were transitioned.³⁰ SES further describes as considerable the range of outreach efforts it undertook to identify the incumbent earth stations for which it claimed Phase I transition responsibility.³¹

12. With respect to variances from its Transition Plan, SES describes situations for three incumbent earth stations in which changes to either lump sum election or location information resulted in SES not performing transition tasks, in addition to agreements with earth station operators which SES asserts relieves it of transition responsibilities.³² SES also states that it filed its Amendment to address discrepancies between its Certification and earth station information reported by the Relocation Coordinator in its most recent Quarterly Report.³³

13. Based on the record presented, the Phase I Certification of Accelerated Relocation filed by SES on October 1, 2021 and amended on October 26, 2021 is hereby validated.³⁴ As required in the *Phase I ARP Certification Procedures PN*, if after the disbursement of the ARP, the Bureau subsequently finds that SES should have transitioned additional earth stations, antennas, or feeds regardless of whether or not they were accounted for in its Transition Plan and Certification, SES will be required to complete all Phase I transition work relating to such earth stations, antennas, or feeds in a prompt and effective

²⁹ SES Certification at 5-6.

³⁰ SES Certification at 6, Appendix B.I, C.I. *See also* SES Amendment at Updated Appendix C.I. SES also reports the completion of other migration steps not specifically addressed by the *Phase I ARP Certification Procedures PN*, including grooming and other work at its Telemetry, Tracking, and Command (TT&C) sites. SES Certification at 1-3. In its August 2020 Transition Plan, SES previously identified Brewster, WA and Hawley, PA as the two locations for its future consolidated TT&C operations in CONUS. SES Americom, Inc., Transition Plan, GN Docket Nos. 18-122 and 20-173 at 1, 18 (filed Aug. 14, 2020). While the Bureau hereby determines that, pursuant to paragraph 374 of the *3.7 GHz Report and Order*, the locations of these sites are reasonable, we otherwise make no specific findings as to SES’s TT&C migration activities or performance. *3.7 GHz Report and Order*, 35 FCC Rcd at 2479-80, para. 374.

³¹ SES Certification at 6-10.

³² SES Certification at 11. SES states that the Relocation Coordinator provided updated information for one earth station operator identifying it as a lump sum electee and, as such, SES did not provide that operator’s earth station with a filter and intends to remove it from SES’ Transition Plan. *Id.* With respect to the two earth stations with incorrect location information, SES indicates that, at the request of the earth station operator, it installed filters on an associated antenna at an alternate location designated by the operator as the correct address. *Id.* SES also references agreements with two incumbent earth station operators relating to inactive earth stations where filters were not installed, as well as another agreement with a different incumbent earth station operator where such operator undertook its own transition duties and responsibilities for six antennas. *Id.* As noted below, if after the disbursement of the ARP, the Bureau subsequently finds that SES should have transitioned these earth stations, SES will be required to complete all Phase I transition work relating to these earth stations.

³³ SES Amendment at 1.

³⁴ While the Bureau validates SES’s Certification, as amended, in the absence of Challenges or other contrary evidence, we make no specific findings as to its Phase I transition performance. *See, e.g.*, *infra* para. 17. We reiterate that validation of this Phase I Certification, as amended, is without prejudice to any procedures and processes the Bureau may adopt for Phase II Certifications, or any future showing made by SES in conjunction with Phase II of the ongoing transition of the 3.7 GHz band.

manner to ensure that the earth stations, antennas or feeds continue to receive substantially the same service that they were able to receive before the transition.³⁵

14. ACCORDINGLY, IT IS ORDERED, that, pursuant to sections 1, 4(i), 4(j), 5, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155, 303(r), and the authority delegated pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331, this Order IS HEREBY ADOPTED, and the above-captioned Phase I Certification of Accelerated Relocation is HEREBY VALIDATED.

15. IT IS FURTHER ORDERED that the Relocation Payment Clearinghouse shall promptly notify the 3.7 GHz Service Licensees that the Bureau has validated the above-captioned Phase I Certification of Accelerated Relocation.

16. IT IS FURTHER ORDERED that the 3.7 GHz Service Licensees shall pay their portion of the relevant Phase I Accelerated Relocation Payment to the Clearinghouse within sixty days of receiving notice from the Clearinghouse, and the Clearinghouse shall disburse the relevant Phase I Accelerated Relocation Payment as set forth in the *3.7 GHz Report and Order* within seven days of receiving the payment from the 3.7 GHz Service Licensees.

17. IT IS FURTHER ORDERED that SES must complete all Phase I transition work for any earth stations, antennas, or feeds later determined to be associated with SES, regardless of whether they were accounted for in its Transition Plan and Certification, in a prompt and effective manner.

18. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 CFR §§ 0.131, 0.331, and the *3.7 GHz Report and Order*, and is effective on release.

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt
Acting Chief, Wireless Telecommunications Bureau

³⁵ *Phase I ARP Certification Procedures PN* at 4; see 47 CFR § 27.1412(a). ("Eligible space station operators are responsible for all necessary actions . . . to migrate the existing services of incumbent earth stations in CONUS to the 4000-4200 MHz band (unless the incumbent earth station opts out of the formal relocation process, per paragraph (e) of this section), as of December 5, 2025. Eligible space station operators that fail to do so will be in violation of the conditions of their license authorization and potentially subject to forfeitures and other sanctions"). The obligation to remediate is independent from, and without prejudice to, any determination that the Certification (or any subsequent remediation effort) was made in bad faith. *Phase I ARP Certification Procedures PN* at 4.