



PUBLIC NOTICE

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INTERNATIONAL BUREAU IDENTIFIES EARTH STATION ANTENNAS ON C-BAND INCUMBENT LIST THAT MAY BE INACTIVE OR OTHERWISE NOT OPERATIONAL ON THE 3.7 GHZ BAND

Earth Station Antennas Subject to this Public Notice that Do Not Provide Notice of Operational Status in the 3.7 GHz band by February 16, 2023, Will Lose Incumbent Status and, Where Applicable, Have Authorizations for Those Frequencies Automatically Terminated in IBFS

IB Docket No. 20-205

With this Public Notice, the International Bureau (Bureau) provides the following notice to operators of certain incumbent FSS C-band earth station antennas recently reported to the Bureau by RSM US LLP (RSM), the C-band Relocation Coordinator, on behalf of incumbent C-band satellite operators.¹ We have attached as an Appendix to this PN a list of these reported earth station antennas. According to RSM, each antenna on this list was reported to RSM by one or more satellite operators as not currently receiving service from a C-band satellite in the 3.7 GHz band even though the FCC's International Bureau Filing System (IBFS) lists the antenna as an active C-band antenna.

Failure to submit a filing to the Bureau by no later than 90 days after the release of this Notice (*i.e.*, by February 16, 2023) affirming the operation in the 3.7 GHz band of the earth station antennas reported to the Bureau, and the intent that those earth station antennas participate in the C-band transition will result in a Bureau announcement that those antennas will be removed from the incumbent earth station list.² Absent such an affirmation, these antennas would no longer qualify as incumbent earth stations based on a finding that either: (1) the portions of the authorizations identified in the attached Appendix regarding the use of the 3.7 GHz

¹ See Letter from Sanga Chandel, RSM US LLP, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 20-205 (filed Oct. 28, 2022) (October 28 RSM filing).

² 47 CFR § 25.138(c)(1) (among other requirements, an incumbent earth station must “continue to be operational” to be eligible for the C-band transition). An incumbent earth station for purposes of the C-band transition is “entitled to interference protection pursuant to § 25.138(c) of this chapter. An incumbent earth station must transition above 4000 MHz pursuant to this subpart. An incumbent earth station will be able to continue receiving uninterrupted service both during and after the transition.” 47 CFR § 27.1411(b)(3). Incumbent earth station operators could opt for either reimbursement of their transition costs, or a lump sum election in the event they decided not to participate in the formal relocation process. 47 CFR § 27.1419. The list of incumbent earth station antennas identified in the Appendix hereto excludes any antennas for which a lump sum election was made.

band have automatically terminated by operation of rule,³ or (2) the interference protection provided by Commission rule regarding use of those frequencies has been automatically terminated.⁴ In addition, the Bureau will, as appropriate, terminate in IBFS those portions of the authorizations relating to the 3.7 GHz band and/or make changes in IBFS necessary to reflect the presumed use of the relevant facilities.

Under the Commission's *3.7 GHz Band Report and Order*, RSM is responsible for coordinating with the five incumbent C-band satellite operators – Eutelsat, Intelsat, SES, StarOne, and Telesat – to ensure that all incumbent earth stations are accounted for in the transition.⁵ The overwhelming majority of incumbent earth stations have been claimed by the satellite operator(s) from which they receive service, included in the relevant satellite operators' transition plans to the Commission, and will be transitioned to the upper 200 megahertz of the band.⁶ RSM, as the C-band Relocation Coordinator, and the satellite operators have conducted outreach and research to determine whether incumbent earth station antennas are still operational in the 3.7 GHz band and, if so, from which satellite(s) the earth station receives its service.⁷ RSM has advised the Commission that it and the incumbent satellite operators regularly share the results of their respective outreach efforts to better coordinate the transition of incumbent earth stations.

In the course of their outreach, the satellite operators and RSM have identified certain entries on the incumbent list that they report include antennas that are not active C-band antennas in the 3.7 GHz band. According to RSM, these entries include: (1) C-band antennas that are inactive or non-operational, (2) authorizations that list more C-band antennas than are currently operational at a site,⁸ (3) duplicate authorizations by the same entity for the same C-band antennas, and (4) operational antennas that do not

³ See 47 CFR § 25.161(c) (a station authorization “shall be automatically terminated . . . without further notice upon [t]he removal or modification of the facilities which renders the station not operational for more than 90 days”).

⁴ Section 27.1411(b)(3) defines an incumbent earth station as one “that is entitled to interference protection pursuant to section 25.138(c),” while section 25.138(c) applies only to earth stations “operating in the 3.7-4.0 GHz portion of the band.” Earth station antennas that do not receive in the C-band, either because they receive in a different band or because they do not exist, would not be entitled to interference protection pursuant to section 25.138. Note that, in addition, the Commission's rules provide that receiving earth stations automatically lose their interference protection if they have been in use less than 50% of the time during any 12-month period or if the Commission finds that the actual use of the facility is inconsistent with what was set forth in the registrant's application. See 47 CFR § 25.162(c) & (e) n.

⁵ See *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2391, paras. 116-23 (2020) (*3.7 GHz Band Report and Order*). As a reminder, the Commission decided in the *3.7 GHz Band Report and Order* that it will no longer accept applications for registration and licenses for FSS operations in the 3.7-4.0 GHz band in the contiguous United States and that it will not accept applications for new earth stations in the 4.0-4.2 GHz band in the contiguous United States for the time being, during the C-band transition. *3.7 GHz Band Report and Order*, 35 FCC Rcd at 2407, paras. 149-151.

⁶ 47 CFR § 27.1412(d) (transition plan requirements). The satellite operators also file quarterly status reports in GN Docket No. 20-173. 47 CFR § 27.1412(f).

⁷ *3.7 GHz Band Report and Order*, 35 FCC Rcd 2343, 2460, para. 313.

⁸ According to RSM, in these cases an authorization holder has included in an IBFS authorization more C-band receive antennas at a site than exist at that site – e.g., 10 antennas registered when there are only six antennas at the site.

receive in the 3.7 GHz band.⁹ RSM represents that these earth station operators have failed to make filings in the FCC's IBFS to reflect the correct status of those antennas.

On October 28, 2022, RSM submitted a letter identifying these individual earth station antennas that fall into one of the four categories listed above, which are included on the latest incumbent earth station list and continue to be listed in IBFS.¹⁰ RSM explains that it compiled this group of antennas—which were not included in the *January 19 PN*, *July 23 PN*, *September 27 PN*, or *May 12 PN*—from representations made to RSM by the satellite operators. We have attached to this PN an Appendix listing the antennas submitted by RSM that fall into the four categories.

We hereby presume as a factual matter, on a rebuttable basis, that earth station antennas included in the Appendix are not active antennas receiving in the 3.7 GHz band, or that the C-band earth station antennas associated with a given site, as reflected on the incumbent list, exceed the actual number of such antennas located at that site. Absent factual rebuttal from the earth station operator by February 16, 2023, these antennas would not satisfy the Commission's C-band transition rules that antennas must be operational C-band antennas entitled to interference protection in the 3.7 GHz band to qualify for incumbent status.¹¹ For inactive earth stations, section 25.161(c) of the Commission's rules provides that an earth station authorization is automatically terminated if the station is not operational for more than 90 days.¹² Where a registration lists more antennas than have been observed to exist at a site, the apparently non-existent antennas will be deemed never to have existed and, accordingly, will fail to qualify for incumbent status under the C-band transition rules. Where there is more than one registration for the same antennas at a site, the antennas listed in one of the apparently duplicate registrations will be deemed never to have existed and, accordingly, will fail to qualify for incumbent status under the C-band transition rules. Similarly, antennas that operate in other bands but do not receive in the 3.7 GHz band would not qualify for incumbent status under the C-band transition rules.¹³

We direct earth station operators with incumbent earth station antennas that appear on the appended list to make either of two filings no later than 90 days after release of this Notice (i.e., by February 16, 2023): (1) file to correct the IBFS filings for the affected antennas,¹⁴ or (2) file in ECFS IB Docket No. 20-205 affirming that those antennas are operational antennas receiving in the 3.7 GHz band. An earth station operator may contact Bureau staff at IBFSINFO@fcc.gov if it has questions about the above or if it needs instructions on how to surrender entire Callsigns in IBFS, how to

⁹ For instance, RSM has represented that certain antennas on the Incumbent List do not receive in the 3.7 GHz band, but are instead antennas operating on Ku band or Ka band frequencies.

¹⁰ See October 28 RSM filing. The October 28 RSM filing, with its attachment, can be found in ECFS. See also May 14, 2022, Incumbent Earth Station List, *as corrected*, April 4, 2022, DA 22-266.

¹¹ 47 CFR § 25.138(c)(1). See note 4 *supra*. As noted above, note 2 *supra*, the earth station antennas listed in the Appendix hereto do not include those that are subject to lump sum elections. Those elections may include C-band antennas whose operators have decided to discontinue all use of the C-band by the end of the C-band transition.

¹² 47 CFR § 25.161(c). The Bureau has delegated authority to enforce the Part 25 rules. 47 CFR § 0.261(a)(15).

¹³ For the latter two groups of antennas, we note that the following rules would apply: (1) section 25.162(c) and (e) of the Commission's rules provide that the interference protection of a receiving earth station is automatically terminated in certain circumstances, including when a station has been used less than 50% of the time during any 12-month period or when actual use of the facility is inconsistent with what is in a registrant's application, 47 CFR § 25.162(c) & (e), and (2) section 25.115(b)(8) of the Commission's rules require earth station operators to take the steps necessary to remove non-operational antennas from the active records in the IBFS, 47 CFR § 25.115(b)(8).

¹⁴ In addition to the required filings in IBFS, those earth station operators may also make a filing in ECFS IB Docket No. 20-205 confirming the extent to which they are surrendering callsigns, removing antennas, or modifying callsigns in IBFS.

remove an inactive earth station antenna from a Callsign that includes other operational earth station antennas, or how to modify its Callsign to accurately reflect the bands used by an antenna.

Earth station operators with earth station antenna(s) on the attached list that do not respond by February 16, 2023, affirming operation of the identified earth station antennas in the 3.7 GHz band¹⁵ will be deemed, based on the above presumptions, to have had either their authorizations to use the 3.7 GHz band for those antennas or their interference protection in the use of the 3.7 GHz band automatically terminated by rule. In those cases, the Bureau also will, as needed, terminate in IBFS those portions of the authorizations relating to the 3.7 GHz band and/or make changes in IBFS necessary to accurately reflect actual use of and interference protection for the relevant facilities. In addition, the Bureau will correct the incumbent earth station list by removing terminated earth station antennas and amending the list to no longer include any antennas in the list that are not operational C-band antennas, including over-registered antennas or antennas receiving in bands other than the 3.7 GHz band. Protection from interference from the network deployments of new wireless licenses and eligibility for reimbursement of any transition costs, including the cost of any filters, will be limited to those earth station antennas on the updated list.

As a reminder, while not subject to 90-days' notice, earth station operators that have not provided the necessary information to the Relocation Coordinator or satellite operators may not be successfully transitioned before terrestrial wireless licensees initiate service in the band. Unless those earth station operators provide the necessary information, they will risk losing their rights to receive relocation assistance prior to the initiation of service in the band by the incoming terrestrial wireless licensees, as well as any rights to operate in the lower C-band at their current locations free of harmful interference that may occur as these licensees deploy their networks.

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¹⁵ Notwithstanding an affirmation of continued operation, the Bureau retains the authority to eliminate an earth station antenna's incumbent status if the Bureau receives additional evidence that the antenna has failed to satisfy applicable requirements for maintaining operation or is otherwise ineligible to be considered an incumbent.