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. 23-97
	)	
Phase II Certification of Accelerated Relocation of Telesat Spectrum Corporation	)	
	)	
	)	

ORDER

Adopted: June 30, 2023 **Released: June 30, 2023**

By the 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 II Certification of Accelerated Relocation (Phase II Certification) filed by Telesat Spectrum Corporation (Telesat)[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

[1] *See* Telesat Spectrum Corporation, Certification of Accelerated Relocation, GN Docket Nos. 18-122 and 23-97 (filed June 1, 2023) (Telesat Phase II Certification). The Telesat Phase II Certification was jointly made by Telesat Spectrum Corporation and its parent entity, Telesat Canada. In the instant Order, the Bureau is only considering the showing made in, and validating, Telesat's Phase II Certification. 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, paras. 297-300 (2020) (*3.7 GHz Report and Order*).

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

of December 5, 2021, and a Phase II deadline of December 5, 2023.[4] All five eligible space station operators elected accelerated relocation.[5]

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 station[6] 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

[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 were required to 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 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. *3.7 GHz Report and Order*, 35 FCC Rcd at 2414, para. 171; 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] 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] *Id.* at 2438, 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. *Id.*; 47 CFR § 27.1422(c). The Clearinghouse must disburse the ARP to the eligible space station operator within seven (7) days of receipt. *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 300; 47 CFR § 27.1422(c).

[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).

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]

5. As directed, on May 15, 2023, the Bureau issued a Public Notice implementing filing procedures for Phase II Certifications and related challenges.[15] The *Phase II Certification Procedures and Incremental Reduction PN* stated that to satisfy the Phase II deadline, the Certification must detail each action that was taken by the eligible space station operator, including the date of completion, matching that operator's Transition Plan as-updated.[16] The *Phase II Certification Procedures and Incremental Reduction PN* further stated that this description should include (but is not limited to):

- The operations that were repacked to satisfy the Phase II 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 II deadline in the same format as the Relocation Coordinator's final list of Phase II incumbent earth station claims and assignments. This information should be provided in the specified format and also include the actions taken (*e.g.*, retuning and repointing, self-installations by the incumbent earth station operator) for each;
- The date of completion of the above items (with the exception of self-installations by incumbent earth station operators);
- 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 all are transitioned as of the date of Certification, including where the incumbent earth station operator has elected to perform a self-installation;
- 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

[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.

[15] *See Wireless Telecommunications Bureau Announces Procedures for Filing of C-band Phase II Certifications of Accelerated Relocation and Implementation of the Commission's Incremental Reduction Plan for Phase II Accelerated Relocation Payments*, GN Docket Nos. 18-122 and 23-97, Public Notice, DA 23-408 (WTB May 15, 2023) (*Phase II Certification Procedures and Incremental Reduction PN*). The *Phase II Certification Procedures and Incremental Reduction PN* stated that: "Challenges to a Certification must be filed in GN Docket No. 23-97 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 10.

[16] *Phase II Certification Procedures and Incremental Reduction PN* at 8-9.

therefore subject to a transition delay notice,[17] and antennas and feeds that are otherwise pending removal from the *March 2023 Incumbent Earth Station List PN* list which must be identified as provisional claims,[18] or antennas and feeds subject to a written agreement regarding the transition between the eligible space station operator and the incumbent earth station operator, other than self-installations by incumbent earth station operators.[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. Telesat submitted its Phase II Certification of Accelerated Relocation on June 1, 2023. The Bureau received no Challenges.

8. Telesat asserts that it has met all the elements required in the *Phase II Certification Procedures and Incremental Reduction PN*.[21] Specifically, Telesat certifies that, as of May 16, 2023, it completed the necessary clearing actions to satisfy the Phase II deadline through its earlier migration of C-band customer transponder services into the upper 200 megahertz of the C-band (4000-4200 MHz) and additional work to transition incumbent C-band earth stations.[22]

9. In its Certification, Telesat addresses each of the eight criteria set forth in the *Phase II Certification Procedures and Incremental Reduction PN*. With respect to repacking, Telesat states that, as part of the Phase I transition process, it had previously moved the carriers for two customers that were transmitting to earth stations below 4000 MHz to the upper portion of the C-band.[23] Telesat describes this earlier migration process, as well as the pre- and post-transition frequencies used to move these carriers to the upper portion of the 4000 MHz band, and states that no additional movement of carriers was

[17] *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 294; 47 CFR § 27.1412(b)(3)(i); *Phase II Certification Procedures and Incremental Reduction PN* at 6-7, 9.

[18] *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 23-176 (IB Mar. 3, 2023) (*March 2023 Incumbent Earth Station List PN*); *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*, IB Docket No. 20-205, Public Notice, DA 23-237 (IB Mar. 21, 2023); *Phase II Certification Procedures and Incremental Reduction PN* at 6-7, 9.

[19] Such written 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 II Certification Procedures and Incremental Reduction PN* at 6-7, 9.

[20] *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 298; *Phase II Certification Procedures and Incremental Reduction PN* at 9-10. 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, 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] *Phase II Certification Procedures and Incremental Reduction PN* at 8-9.

[22] Telesat Phase II Certification at 1, 4.

[23] *Id*. at 1-2.

necessary as part of its Phase II clearing activities.[24] Telesat also explains that it did not need to launch any new satellites, nor did it have to implement any technology upgrades or other solutions, such as video compression or modulation, to complete its Phase II transition.[25]

10. Telesat indicates that Tables 2 and 3 to its Phase II Certification identify the earth stations for which it was responsible for Phase II transition work, noting where earth station operators performed self-installations as well as instances where Telesat says it performed filtering and retuning work for claimed and assigned earth stations, along with the relevant completion dates.[26] Telesat provides additional completion date information for its transition work in Table 1, and details the steps it undertook to identify all associated earth stations, antennas, and feeds.[27] Finally, Telesat notes that there were no variances from its final Transition Plan.[28]

11. Based on the record and the absence of credible challenges, and as discussed in the *Phase II Certification Procedures and Incremental Reduction PN*, the Phase II Certification of Accelerated Relocation filed by Telesat on June 1, 2023, is hereby validated,[29] with the following condition: if after the disbursement of the ARP, the Bureau subsequently finds that Telesat should have transitioned additional earth stations, antennas, or feeds regardless of whether or not they were accounted for in its Transition Plan and Phase II Certification, Telesat will be required to complete all Phase II transition work relating to such earth stations, antennas, or feeds in a prompt and effective 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.[30]

12. 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 II Certification of Accelerated Relocation is HEREBY VALIDATED.

---

[24] Telesat Phase II Certification at 1-2, Table 1 (showing Telesat's migration of space segment services from below 4000 MHz to above 4000 MHz for its Phase I and II PEAs). Telesat states that all other space segment services received in the contiguous United States were already operating above 4000 MHz. *Id.* at 1-2.

[25] *Id*. at 2.

[26] *Id*. at 2-4, Tables 2-3. Telesat notes that in addition to claimed and assigned antennas, it has also tracked three antennas whose existing licenses are in the process of being updated as provisionally claimed, with the new file numbers tracked as claimed and assigned. Telesat asserts that once the new license file numbers' status changes to current, the old ones that are provisionally claimed will drop off, and there will be no change to the total number of antennas that have been claimed, assigned or transitioned, nor additional transition work required. *Id*. at 3, n.10.

[27] *Id*. at 2-4.

[28] *Id*. at 4.

[29] Although the Bureau validates Telesat's Phase II Certification in the absence of Challenges or other contrary evidence, we make no specific findings as to its Phase II transition performance.

[30] *Phase II Certification Procedures and Incremental Reduction PN* at 7-8, 10; *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 II Certification Procedures and Incremental Reduction PN* at 10.

13. 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 II Certification of Accelerated Relocation.

14. IT IS FURTHER ORDERED that the 3.7 GHz Service Licensees shall pay their portion of the relevant Phase II Accelerated Relocation Payment to the Clearinghouse within sixty days of receiving notice from the Clearinghouse, and the Clearinghouse shall disburse the relevant Phase II 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.

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

16. 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
Chief, Wireless Telecommunications Bureau