

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

In the Matter of	)	
	)	
ANUVU LICENSING HOLDINGS, LLC	)	WT Docket No. 21-333
	)	
3.7-4.2 GHz Band Transition Clearinghouse	)	File No. 2
Dispute Referrals and Appeals	)	

**INITIAL DECISION**

**Adopted: February 6, 2026****Released: February 6, 2026**

*Appearances: David S. Keir, Esq., F. Scott Pippin, Esq., and Jeremy D. Marcus, Esq., on behalf of Anuvu Licensing Holdings, LLC; Pamela S. Kane, Esq., and Ryan Mitchell, Esq., on behalf of Enforcement Bureau, Federal Communications Commission*

1. On June 18, 2025, the FCC’s Wireless Telecommunications Bureau (WTB) released a Hearing Designation Order in the above-captioned proceeding that granted a petition for *de novo* review filed by Anuvu Licensing Holdings, LLC.<sup>1</sup> That action was taken in accord with the process for transitioning services out of the lower portion of the 3.7–4.2 GHz band (C-band), pursuant to sections 0.131, 0.331, and 27.1421(c) of the Commission’s rules,<sup>2</sup> the *3.7 GHz Report and Order*,<sup>3</sup> and the *RPC Appeals Public Notice*.<sup>4</sup> Anuvu, an incumbent earth station operator in the lower C-band, challenges how the reimbursement of its relocation expenses was calculated by the Transition Relocation Payment Clearinghouse (Clearinghouse). Anuvu requested a reimbursement of \$1,287,214.13 for expenses it incurred to relocate its lower C-band facilities; the Clearinghouse approved a reimbursement of \$326,519.78. Anuvu sought review of that decision by WTB, which affirmed the reimbursement amount determined by the Clearinghouse.<sup>5</sup> This *de novo* review follows.

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<sup>1</sup> *Anuvu Licensing Holdings, LLC*, Hearing Designation Order, WT Docket No. 21-333, File No. 2, DA 25-527, 2025 WL 1905805 (WTB June 18, 2025) (*Anuvu HDO*) (granting Petition for De Novo Review of Anuvu Licensing Holdings, LLC. (filed Apr. 4, 2025)).

<sup>2</sup> 47 CFR §§ 0.131, 0.331, and 27.1421(c).

<sup>3</sup> *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, GN Docket No. 18-122, 35 FCC Rcd 2343 (2020) (*3.7 GHz Report and Order*), *appeal and petition for review dismissed sub nom. PSSI Global Services, L.L.C. v. FCC*, 983 F.3d 1 (D.C. Cir. 2020).

<sup>4</sup> *Wireless Telecommunications Bureau Announces Procedures for Appeals of Relocation Payment Clearinghouse Decisions*, Public Notice, WT Docket No. 21-333, 37 FCC Rcd 3956 (WTB 2022).

<sup>5</sup> *3.7-4.2 GHz Band Transition Clearinghouse Dispute Referrals and Appeals*, Memorandum Opinion and Order, WT Docket No. 21-333, File No. 2, DA 25-272, 2025 WL 947198 (WTB Mar. 26, 2025) (*Anuvu Clearinghouse Appeal Order*).

## I. BACKGROUND

### A. The C-band Transition

2. Prior to 2020, the C-band was primarily allocated for Fixed Satellite Service (FSS) and Fixed Service (FS) operations. On March 3, 2020, the Commission released a Report and Order aimed at clearing incumbent operators from the lower portion of the C-band to make that spectrum available for the deployment of updated “5G” wireless technology. The Commission determined in the *3.7 GHz Report and Order* that it would reallocate the band for flexible wireless use and conduct a public auction of spectrum in the lower 280 MHz of the band. Incumbent operators in the lower portion of the band were to be reimbursed for the reasonable costs of migrating their facilities to the upper portion of the band. The auction winners, or “overlay licensees,” would be responsible for covering those relocation costs.<sup>6</sup> Auction of the spectrum concluded on February 17, 2021, and overlay licenses were granted in 2021 and 2022.<sup>7</sup>

3. The Commission determined in the *3.7 GHz Report and Order* that the cost-related aspects of the C-band transition would be administered by the Clearinghouse, an outside entity chosen by industry stakeholders based on criteria established by the Commission.<sup>8</sup> The Commission tasked the Clearinghouse with evaluating the reasonableness of relocation cost data submitted by incumbents, as well as apportioning costs among overlay licensees. The Clearinghouse would also collect payments from the overlay licensees and distribute them to eligible incumbents.<sup>9</sup> On July 30, 2020, in conjunction with the Clearinghouse, WTB released the C-band transition *Cost Catalog*, a final schedule of estimated expenses related to the lower C-band transition.<sup>10</sup> The *3.7 GHz Report and Order* codified the process for resolving cost disputes at section 24.1421 of the Commission’s rules, 47 CFR § 24.1421, which provides that parties challenging a reimbursement payment must first file an objection with the Clearinghouse. Appeals of the Clearinghouse’s decision may then be filed with WTB, and parties seeking to appeal WTB’s decision may seek *de novo* review before the Commission’s Administrative Law Judge.

### B. Anuvu’s Reimbursement Request

4. Pursuant to the reallocation of the lower C-band, Anuvu relocated facilities from its teleport in Holmdel, New Jersey to an unused site that it owns in Raisting, Germany. It filed two claims with the Clearinghouse seeking a total of \$1,287,214.13 as reimbursement for the cost of system modifications at those earth station sites -- \$326,519.78 for work at Holmdel and \$960,694.35 for work at Raisting.<sup>11</sup> The Clearinghouse approved the requested reimbursement for Holmdel but denied

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<sup>6</sup> *3.7 GHz Report and Order* at 2353.

<sup>7</sup> *Auction of Flexible-Use Service Licenses in the 3.7-3.98 GHz Band Closes Winning Bidders Announced for Auction 107*, Public Notice, 36 FCC Rcd 4318 (OEA/WTB 2021); *Wireless Telecommunications Bureau Grants Auction 107 Licenses*, Public Notice, 36 FCC Rcd 10972 (WTB 2021); *Wireless Telecommunications Bureau Grants Additional Auction 107 Licenses*, Public Notice, 37 FCC Rcd 4505 (WTB 2022).

<sup>8</sup> *3.7 GHz Report and Order* at 2446-47.

<sup>9</sup> *Id.* at 2447-49.

<sup>10</sup> *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*, Public Notice, 35 FCC Rcd 7967 (WTB 2020) (*Cost Catalog*).

<sup>11</sup> *Anuvu HDO* at para. 5.

reimbursement for changes to the Raisting site because it is outside of the United States.<sup>12</sup> Anuvu filed a notice of objection with the Clearinghouse; pursuant to established procedures, the Clearinghouse deemed the matter ineligible for dispute resolution because no overlay licensee filed an objection.<sup>13</sup> On February 10, 2025, Anuvu filed an appeal of the Clearinghouse's decision disallowing the Raisting reimbursement with WTB, which WTB denied on March 26, 2025. WTB concluded that Anuvu had not met its burden of proof in disputing the decision of the Clearinghouse, and independently decided that the Raisting expenses were not reimbursable.<sup>14</sup>

5. In accord with section 24.1421 of the Commission's rules, Anuvu sought *de novo* review of the WTB decision by the Presiding Judge, which led WTB to release the *Anuvu HDO*. The *Anuvu HDO* designated the following three issues for hearing:

- a. To determine whether Anuvu met its burden of proof to demonstrate that the RPC [Clearinghouse] erred in its finding that the claims were not compensable in-so-far as they relate to the Raisting site, which is located outside the United States;
- b. To determine whether the RPC [Clearinghouse] properly applied Commission guidance to the claims in question; and
- c. To determine whether the disallowed amount of \$960,694.35 should be reimbursed to Anuvu.<sup>15</sup>

Anuvu carries the burden of proceeding with the introduction of evidence and the burden of proof.<sup>16</sup> Consistent with applicable law, the appropriate standard of proof in administrative hearings is the preponderance of the evidence standard.<sup>17</sup>

6. The Chief of the FCC's Enforcement Bureau has been designated as a party without the need to file an appearance.<sup>18</sup> This proceeding has been conducted pursuant to the written hearing procedures codified at sections 1.370 through 1.377 of the Commission's rules, 47 CFR §§ 1.370 – 1.377.<sup>19</sup> Per those procedures and the schedule adopted by the Presiding Judge, Anuvu filed its Affirmative Case on September 5, 2025.<sup>20</sup> The FCC's Enforcement Bureau filed its responsive case on

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<sup>12</sup> Response of Relocation Payment Clearinghouse LLC to Anuvu Appeal, WT Docket No. 21-333, File No. 2 (filed Feb. 24, 2025) (Clearinghouse Response) at Appendix, Tab 4 (Decisional Memorandum dated Dec. 4, 2024). On January 13, 2025, Anuvu received payment for work at the Holmdel site. *Anuvu HDO* at para. 5

<sup>13</sup> Clearinghouse Response at Appendix, Tab 6 (email from Chief Mediator Joseph P. Markoski to David S. Keir, Counsel for Anuvu, dated Jan. 15, 2025).

<sup>14</sup> 3.7-4.2 GHz Band Transition Clearinghouse Dispute Referrals and Appeals, Memorandum Opinion and Order, WT Docket No. 21-222, File No. 2, DA 25-272, 2025 WL 947198 (WTB Mar. 26, 2025) (*WTB Anuvu MO&O*).

<sup>15</sup> *Anuvu HDO* at para. 28.

<sup>16</sup> *Id.* at para. 29.

<sup>17</sup> *China Telecom (Americas) Corporation*, Order on Revocation and Termination, GN Docket No. 20-109, 36 FCC Rcd 15966, 15977 (2021).

<sup>18</sup> *Anuvu HDO* at para. 31.

<sup>19</sup> *Id.* at para. 10.

<sup>20</sup> Affirmative Case Brief of Anuvu Licensing Holdings, LLC, WT Docket No. 21-333, File No. 2 (filed Sept. 5, 2025) (Anuvu Affirmative Case). See also *Anuvu Licensing Holdings*, Order Summarizing Initial Status Conference, WT Docket No. 21-333, File No. 2, FCC 25M-03, 2025 WL 3471049 (ALJ July 15, 2025) (adopts initial hearing schedule).

November 21, 2025, to which Anuvu replied on December 18, 2025.<sup>21</sup>

## II. FINDINGS OF FACT AND CONTENTIONS OF THE PARTIES

### A. Findings of Fact

7. The pertinent facts in this matter are undisputed.<sup>22</sup> Anuvu was an incumbent operator in the lower C-band with earth stations eligible for relocation reimbursement. As authorized by the *3.7 GHz Report and Order*, Anuvu opted to receive reimbursement of the reasonable costs of relocating its facilities rather than electing a per-antenna lump sum. Anuvu relocated its lower C-band earth station operations from its teleport in Holmdel, NJ, to a teleport that it owns in Raisting, Germany. The Clearinghouse approved payment of \$326,519.78 to Anuvu for expenses incurred at Holmdel and denied an additional \$960,694.35 for expenses incurred at Raisting.<sup>23</sup> The Clearinghouse has ceased operation but Anuvu and overlay licensee Verizon have agreed that Verizon will pay what may be due to Anuvu as a result of this proceeding and seek reimbursement from other overlay licensees as appropriate.<sup>24</sup>

### B. Contentions of the Parties

8. Anuvu asserts that in denying its request for reimbursement of the Raisting expenses, the Clearinghouse and WTB incorrectly relied on one sentence at the end of a footnote in the *3.7 GHz Report and Order* that indicated, “In any case, costs associated with constructing facilities outside of the United States will not be considered compensable relocation costs.”<sup>25</sup> Anuvu argues that the footnote, including that last sentence, was intended to address a discrete *ex parte* issue raised by satellite provider Intelsat and did not provide sufficient notice to incumbent earth station operators that the costs of relocating an earth station outside of the United States would not be reimbursable. Anuvu contends that its argument is supported by the fact that the rules adopted in the lower C-band relocation proceeding do not expressly prohibit reimbursement for relocation costs outside of the United States.<sup>26</sup> In addition, Anuvu points out, the footnote refers to “constructing facilities,” and it did not construct new facilities but simply modified its existing facility at Raisting.<sup>27</sup>

9. Anuvu also submits that in response to an inquiry from GCI Communications Corp., which had indicated that it would incur transition-related costs in Alaska, i.e., outside of the contiguous United States, the *3.7 GHz Report and Order* stated that parties could recover such costs if they could show that they were necessary as a direct result of the transition within the contiguous United States. Anuvu contends that pursuant to the GCI example of the *3.7 GHz Report and Order*, its expenses at

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<sup>21</sup> Enforcement Bureau’s Responsive Case Brief, WT Docket No. 21-333, File No. 2 (filed Nov. 21, 2025); Reply Brief of Anuvu Licensing Holdings, LLC, WT Docket No. 21-333, File No. 2 (filed Dec. 18, 2025). Due to a lapse in appropriations that led to a cessation of most FCC operations, some of the original deadlines in this proceeding were extended. *Anuvu Licensing Holdings, LLC*, Order Revising Pleading Deadlines, WT Docket No. 21-333, File No. 2, FCC 25M-05 (ALJ Nov. 13, 2025).

<sup>22</sup> Transcript of Initial Status Conference at Tr. 4:9-15 (July 15, 2025); *Anuvu HDO* at n.20.

<sup>23</sup> *Anuvu HDO* at para. 5.

<sup>24</sup> Anuvu Affirmative Case at para. 11 (citing “Wireless Telecommunications Bureau Announces Wind Down of the 3.7-4.2 GHz Relocation Payment Clearinghouse,” Public Notice, GN Docket No. 18-122, WT Docket No. 21-333, DA 25-735, 2025 WL 2437854 at n.3 (WTB Aug. 21, 2025)).

<sup>25</sup> *3.7 GHz Report and Order* at 2425 n.535.

<sup>26</sup> Anuvu Affirmative Case at paras. 9, 48-49.

<sup>27</sup> *Id.* at paras. 23-24, 28-29.

Raisting were justified because they were “incurred as a direct result of the transition in the contiguous United States.”<sup>28</sup> Moreover, Anuvu asserts, the decision to deny its reimbursement request for the Raisting expenses is inconsistent with the goal articulated in the *3.7 GHz Report and Order* of making incumbent C-band operators whole, both by ensuring that they are able to continue the level of service that existed prior to relocation and by compensating them for costs attributable to the transition of lower C-band operations. Anuvu submits that its claimed expenses were reasonable in that it endeavored to minimize costs by choosing to relocate to the Raisting site, which it owns and where it had suitable antennas that could be modified, rather than relocating to an existing site in Andover, Maine, where it would have had to lease the site and construct new facilities. Anuvu indicates that using the Raisting site cost it roughly half of what a move to the Maine location would have cost.<sup>29</sup>

10. The Enforcement Bureau submits that Anuvu has not met its burden of proof to show that the Clearinghouse and WTB erred in finding the Raisting expenses non-reimbursable. It points out that footnote 535 of the *3.7 GHz Report and Order* is part of a larger section establishing guidelines for compensable relocation costs, and contends that the statement therein that “[i]n any event, costs associated with constructing facilities outside of the United States will not be considered compensable relocation costs” is clear. The Bureau asserts that its reading is consistent with other portions of the *3.7 GHz Report and Order* that demonstrate that lower C-band relocation reimbursement was intended only for costs incurred within the United States and its territories.<sup>30</sup> It agrees with the Clearinghouse and WTB that the discussion of the GCI situation in the *3.7 GHz Report and Order* was not intended to indicate that an incumbent could recoup relocation expenses incurred outside of the United States, but solely meant to make a necessary exception for operators outside of the contiguous U.S. but still within the confines of the country that were adversely affected by the lower C-band transition.<sup>31</sup>

11. Anuvu replies that the Enforcement Bureau mischaracterizes its argument and it reiterates its primary point that “the Commission was late to consider reimbursement for expenditures beyond U.S. borders, failed to assess the issue fully, and addressed the matter in such a vague and obscure manner that it provided insufficient notice or guidance to affected earth station licensees and registrants.”<sup>32</sup> It contends that the descriptions of the phrase “outside of the contiguous United States” cited by the Bureau bear no relation to the scope of reimbursable expenses and instead refer to the reallocation of the band itself, which only applied to incumbent operations within the contiguous United States.<sup>33</sup> Further, Anuvu submits that other Commission rules use the phrase “the rest of the United States” when describing areas outside of the contiguous U.S. that are still part of the U.S. It argues that the *3.7 GHz Report and Order* could have chosen to use that more precise language if it intended to forestall reimbursement of non-U.S. relocation expenses.<sup>34</sup>

### III. CONCLUSIONS OF LAW

12. The core inquiry of this hearing proceeding is whether Anuvu has shown by a preponderance of the evidence that the costs that it incurred to relocate its lower C-band earth station facilities to Raisting, Germany are compensable under the standards established in the lower C-band

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<sup>28</sup> *Id.* at para. 33 (quoting *3.7 GHz Report and Order* at 2428).

<sup>29</sup> *Id.* at paras. 12-18.

<sup>30</sup> EB Responsive Case at paras. 30-33.

<sup>31</sup> *Id.* at paras. 22-29.

<sup>32</sup> Anuvu Reply at para. 3.

<sup>33</sup> *Id.* at paras. 9-11.

<sup>34</sup> *Id.* at para. 12 (citing 47 CFR §§ 25.103, 27.1411(b)(6), and 101.3).

reallocation proceeding. After a thorough *de novo* review of the facts and the law, the Presiding Judge agrees with the Clearinghouse, WTB, and the Enforcement Bureau that such costs are not reimbursable.

13. Seeking to position the United States at the forefront of next-generation wireless networks, the Commission's goal in this proceeding was to clear the lower C-band quickly to make way for advanced wireless services. The band clearing was to be accomplished in a way that enabled incumbent operators to provide the same level of service that they did prior to the transition. The Commission made clear that reimbursement would only be available to satellite operators serving the contiguous United States and operators of earth stations located in the contiguous United States that needed to make changes to their facilities due to the reallocation of the band.<sup>35</sup> The Commission gave incumbents the option to modify their facilities and receive reasonable cost reimbursement later from overlay licensees, or to accept an upfront lump sum payment based on system configuration. It is undisputed that Anuvu qualified as an incumbent earth station operator entitled to reimbursement, and Anuvu opted to receive payment for its actual expenses. Anuvu was paid the full amount that it claimed for system modifications at Holmdel. Anuvu asserts that because the Commission never made clear that affected earth stations had to be relocated within the United States, its larger claim for system modifications at Raisting was reimbursable as well.

14. The *3.7 GHz Report and Order* provided, both specifically in footnote 535 and more broadly in context, that costs incurred to relocate facilities outside of the United States were not compensable. Footnote 535 begins by responding to a discrete issue raised by Intelsat regarding whether its construction of a new telemetry, tracking, and command (TT&C) earth station site outside of the U.S. would be covered. The Commission found that the proposed facility did not qualify as a reasonable cost of the C-band transition and expressed skepticism that Intelsat could not co-locate on an existing TT&C site within the U.S. Separately, it stated, "In any case, costs associated with constructing facilities outside of the United States will not be considered compensable relocation costs."<sup>36</sup> Anuvu contends that this language is not sufficient to show that the Commission intended more generally that no incumbents would be reimbursed for relocating earth stations outside of the country. Accordingly, Anuvu asserts, the Commission did not provide sufficient notice to incumbents that international costs would not be covered. It submits that the footnote did not appear in the initial draft of the *3.7 GHz Report and Order* that was publicly released but was added after Intelsat made its *ex parte* request. Anuvu posits that this indicates that the entire footnote, including the final sentence, was applicable only to Intelsat's query and was not intended to impose a blanket prohibition on reimbursement for relocation of lower C-band earth stations outside of the United States.<sup>37</sup>

15. Anuvu cites *McElroy Electronics v. FCC* for the principle that the Commission may not "bury what it believes to be the heart of its order in the last line of a footnote."<sup>38</sup> Far from being the heart of the *3.7 GHz Report and Order*, however, the notion that earth stations relocating outside of the U.S. were not eligible for reimbursement was a tangential issue that would likely have an impact on a limited number of parties, perhaps only Anuvu. Most incumbent FSS operators in the United States used the lower C-band to deliver television and radio programs to broadcasters throughout the U.S., and to deliver telephone and data services to consumers.<sup>39</sup> As Anuvu points out, those incumbents "would have no

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<sup>35</sup> *3.7 GHz Report and Order* at 2426 ("We reiterate that compensable relocation costs are only those that are reasonable and needed to transition *existing* operations in the contiguous United States out of the lower 300 megahertz of the C-band").

<sup>36</sup> *Id.* at 2425 n.535.

<sup>37</sup> Anuvu Affirmative Case at paras. 9, 25-26, 35.

<sup>38</sup> *Id.* at para. 37 (quoting *McElroy Electronics v. FCC*, 990 F.2d 1351, 1366 (D.C. Cir. 1993)).

<sup>39</sup> *3.7 GHz Report and Order* at 2347-48. The band was also used for the reception of telemetry signals. *Id.*

reason to even consider seeking to locate operations beyond U.S. borders.”<sup>40</sup> Unlike the majority of incumbents, Anuvu used its Holmdel earth station to deliver internet connectivity to maritime customers, such as cruise ships, private boats, and offshore platforms, that operate almost entirely outside of the United States in international waters. Because those customers were not required to discontinue use of the lower C-band, Anuvu submits that it was limited in finding a site that would allow it to maintain access to that existing infrastructure.<sup>41</sup>

16. The circumstances that led to the District of Columbia Circuit’s reversal of the Commission in *McElroy* are distinguishable from this case. The FCC order under review in *McElroy* included language throughout that the court found clearly and repeatedly indicated when parties could file applications to provide “fill-in” cellular service after the initial rollout of cellular licenses across the country. The court found that the Commission had indicated several times, without qualification, that applications for unserved areas in a Metropolitan Statistical Area would be accepted five years from the grant date of the first construction permit in that area. The dispute in *McElroy* was that the Commission later dismissed applications filed in reliance on those statements as premature and told the parties to refile after processing procedures were adopted and a specific filing date was announced. As justification for that dismissal, the Commission pointed to a footnote in its order stating its intention to issue a public notice announcing filing deadlines. The court concluded that the footnote was too ambiguous to counteract the clear statements specifying the filing date in the text of the order.<sup>42</sup> Unlike the disputed footnote in *McElroy*, footnote 535 of the *3.7 GHz Report and Order* is not ambiguous – “In any case, costs associated with constructing facilities outside of the United States will not be considered compensable relocation costs.” Nor does it conflict with the text of the *3.7 GHz Report and Order*.

17. Anuvu also points to the District of Columbia Circuit’s ruling in *MCI Telecommunications Corp.*, which overturned a Commission decision that ordered telephone local exchange carriers to change the way they offered services to interexchange carriers.<sup>43</sup> The court found that interexchange carriers were not afforded sufficient notice of that change, which the Commission had mentioned only in a footnote attached to the background section of the initiating notice of proposed rulemaking. Rather than being a situation that “strongly resembles” the Anuvu matter, as Anuvu contends, *MCI* involved a crucial difference.<sup>44</sup> The court in *MCI* disapproved of the fact that the language was in a footnote, but based its holding on the limited scope of the proceeding as a whole, which gave no inkling that it would have a significant effect on interexchange carriers.<sup>45</sup> On the other hand, while footnote 535 contained the clearest statement of the restriction on international costs, that footnote was not, as Anuvu argues, the “sole basis” for denying Anuvu reimbursement for Raisting.<sup>46</sup> As discussed more fully below, the limitation on costs for earth stations located outside of the United States was apparent elsewhere throughout the text and in the *Cost Catalog*. Anuvu is correct that the footnote was appended to a paragraph that addressed only satellite providers, but it is notable that the discrete subsection of the *3.7 GHz Report and Order* in which it was included focused on compensable relocation costs for both incumbent satellites and incumbent earth stations.<sup>47</sup>

<sup>40</sup> Anuvu Reply at para. 13 (quoting Anuvu Affirmative Case at para. 40).

<sup>41</sup> Anuvu Affirmative Case at para. 5.

<sup>42</sup> *McElroy Electronics*, 990 F.2d at 1361. See also *Qwest Corp. v. FCC*, 252 F.3d 462, 467 (D.C. Cir. 2001) (“There [in *McElroy*] we held than an *ambiguous* footnote in a Commission order failed to provide adequate notice...but here the footnote, though small, is not obscure”).

<sup>43</sup> *MCI Telecommunications Corp. v. FCC*, 57 F.3d 1136 (D.C. Cir. 1995) (*MCI v. FCC*).

<sup>44</sup> Anuvu Affirmative Case at para. 49.

<sup>45</sup> *MCI v. FCC* at 1141-42.

<sup>46</sup> Anuvu Affirmative Case at para. 50.

<sup>47</sup> *3.7 GHz Report and Order* at 2422-28.

18. Anuvu additionally argues that the language in the footnote only applies to new construction as proposed by Intelsat and not modification of existing facilities like Anuvu implemented at Raisting.<sup>48</sup> Given the Commission's recognition that incumbents have widely different needs, it follows that the Commission was using "constructing" generically and colloquially to refer to the process of facility modification, regardless of what that modification may look like. The *3.7 GHz Report and Order* indicated that relocation reimbursement would include expenses "to retune, repoint, and install new antennas and install filters and compression software and hardware."<sup>49</sup> Those activities might reasonably be referred to as "construction" by some. Moreover, the *Cost Catalog* acknowledged that replacement of an entire facility could be required.<sup>50</sup> This illustrates that the relocation and reimbursement process was designed to account for a broad spectrum of modifications, and nowhere in the *3.7 GHz Report and Order* or the *Cost Catalog* does the Commission indicate an intent to parse that continuum. To interpret the term "constructing" as narrowly as Anuvu urges would run counter to the Commission's desire to afford incumbents appropriate flexibility to choose how to reconfigure or replace their existing facilities.

19. That flexibility does not extend to relocating facilities outside of the United States, however. Anuvu contends that footnote 535 should not be read to apply broadly to all relocated earth stations; not only does the modifier "in any case" contradict that argument, but when read in context of the broader C-band proceeding, it is apparent that the Commission did not intend to compensate incumbents for international costs. The GCI example is particularly instructive. GCI posed that its operations in Alaska, outside of the contiguous U.S., would incur costs related to the reallocation of the lower C-band due to its contracts with programmers and space station operators.<sup>51</sup> The Commission responded that, "should GCI or other parties seek cost reimbursement pursuant to the process outlined in this *Report and Order* for relocation costs outside of the contiguous United States, they must demonstrate that they were required to make the system modifications for which they seek reimbursement as a direct result of the transition in the contiguous United States."<sup>52</sup> Anuvu contends that this is at odds with the notion that expenses incurred outside the U.S. are not reimbursable, and that because its Raisting earth station is outside of the contiguous United States and Anuvu can show that its costs at Raisting are a direct result of the C-band transition, its overseas costs should be reimbursed.

20. The most logical reading of footnote 535 together with the GCI discussion in the *3.7 GHz Report and Order* is that when the Commission provided an avenue for operators to seek reimbursement for earth stations outside of the contiguous United States, it meant locations that are within the territory of the United States, not anywhere in the world as argued by Anuvu. Several statements in the order indicate that the Commission intended that the phrase "areas outside of the contiguous U.S." was limited to Alaska, Hawaii, and United States territories. For instance, in discussing satellite coverage, the Commission referred to "Hawaii, Alaska, and all the territories and possessions, i.e., areas outside of the contiguous United States."<sup>53</sup> It later mentioned satellite transmissions "sent to locations outside of the contiguous United States and other countries;" Anuvu's interpretation would render those last words meaningless.<sup>54</sup> Further, in explaining why the lower C-band will not be repurposed outside of the contiguous U.S., the Commission pointed to the continued need for that spectrum to provide service to

<sup>48</sup> Anuvu Affirmative Case at paras. 23-24, 28-29.

<sup>49</sup> *3.7 GHz Report and Order* at 2426.

<sup>50</sup> *Cost Catalog*, 35 FCC Rcd at 8011 ("some entities may have to replace an entire antenna system either due to a need to relocate the antenna or because the system is too old or incompatible with a simpler upgrade").

<sup>51</sup> *3.7 GHz Report and Order* at 2428.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 2348 n.31.

<sup>54</sup> *Id.* at 2398.



remote areas in Alaska and Hawaii.<sup>55</sup> It concluded, “we believe it is appropriate to exclude PEAs [Partial Economic Areas] outside of the contiguous United States from the proposed license modification, notably in the Honolulu, Anchorage, Kodiak, Fairbanks, Juneau, Puerto Rico, Guam-Northern Mariana Islands, U.S. Virgin Islands, American Samoa, and the Gulf of Mexico.”<sup>56</sup> Similarly, the *Cost Catalog* includes as a reimbursable expense travel to earth station sites outside of the contiguous United States, which it describes as “to Hawaii or Alaska, where required as part of the transition.”<sup>57</sup>

21. More generally, the C-band transition itself is plainly focused on the contiguous United States. The Commission made clear that incumbent satellite operators that do not provide service to one or more earth stations in the contiguous United States are not eligible for reimbursement.<sup>58</sup> Incumbent earth stations located outside of the contiguous United States were not required to migrate away from the lower C-band.<sup>59</sup> Earth station operators opting for a lump sum payment instead of reimbursement of actual costs did not receive reimbursement for earth stations located outside of the contiguous U.S.<sup>60</sup> While the *Cost Catalog* acknowledges that some earth station operators may need to relocate, at no point does the reimbursement mechanism appear to permit incumbents to recover costs for relocation outside of the United States. That is presumably because most incumbents did not need to physically move from their existing locations. For those earth stations that needed to be relocated, it is apparent from the *Cost Catalog* that such a move was expected to be within the same vicinity.<sup>61</sup> Anuvu acknowledges that its operations are unlike most other incumbents in the C-band. It would have been reasonable and prudent, then, for it to seek more detailed guidance from the Clearinghouse or the Commission prior to undertaking the move to Germany, but it does not appear to have done so.<sup>62</sup>

22. Separately, even if the Commission hadn’t intended that reimbursement be limited to facilities within the boundaries of the United States, Anuvu has not satisfied the standard provided in the GCI example. The *3.7 GHz Report and Order* instructed parties seeking reimbursement for transition-related costs outside of the contiguous United States to show “that they were required to make the system modifications for which they seek reimbursement as a direct result of the transition in the contiguous United States.”<sup>63</sup> The word “required” means more than just demonstrating that the C-band reallocation necessitated modification of existing facilities, as Anuvu urges, but also that the particular modifications made outside of the contiguous U.S. were necessary. Anuvu demonstrated that it had to depart from Holmdel, a conclusion with which the Clearinghouse and WTB agreed. Anuvu has acknowledged, however, that it could have relocated those operations to a site that it did not own in Andover, Maine, within the contiguous United States. It offers several reasons why it chose not to do so, including the expense of “new construction and significant equipment purchases, vendor installation costs, travel and lodging costs for in-house engineering personnel, and recurring site lease and earth station management

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<sup>55</sup> *Id.* at 2371, 2398.

<sup>56</sup> *Id.* at 2398.

<sup>57</sup> *Cost Catalog* at 8006.

<sup>58</sup> *3.7 GHz Report and Order.* at 2426.

<sup>59</sup> *Id.* at 2398.

<sup>60</sup> *Id.* at 2428 n.550.

<sup>61</sup> Notably, the *Cost Catalog* spells out potential costs for Fixed Service incumbents moving to new locations, including expenses associated with zoning, permitting, leasing, and surveying, but does not appear to include equivalent costs applicable to relocating FSS incumbents. *See Cost Catalog* at 8018-19.

<sup>62</sup> Anuvu relocated its Holmdel operations to Raisting in 2022-23. Anuvu Affirmative Case, Exh. 1, Letter from David S. Keir, Counsel to Anuvu, to the RPC (dated Nov. 13, 2024) at 5.

<sup>63</sup> *Id.* at 2428.

costs.”<sup>64</sup> It also prefers to use facilities that it owns as opposed to leasing capacity on another entity’s teleport.<sup>65</sup> Anuvu contends that all that was required at Raisting was to recommission existing but dormant antennas by purchasing and installing some new equipment, which was significantly less expensive than what it would have needed to do to make the Maine site suitable.<sup>66</sup>

23. Presuming that the move to Raisting was more cost-effective in the short term, that does not prove that Anuvu was required to incur the particular expenses that it did outside of the contiguous United States. The Commission intended that reimbursement for costs outside of the contiguous United States would be available only in unique, limited circumstances.<sup>67</sup> The fact that a move outside of the contiguous U.S. might be more economical is not one of those circumstances. Nor is it relevant that Anuvu may realize operational efficiencies by using its own facilities rather than a leased site. While the *3.7 GHz Report and Order* stressed that claimed expenses must be reasonable, it did not indicate the least expensive option would always prevail. It defies logic that the Commission would view as “required” outsourcing facilities to Germany, with the associated loss of employment and revenue in the U.S., when a usable, if pricier, option was available within the contiguous United States. Anuvu objects to characterization of its choice as a “business decision,” but that appears to be what it was.<sup>68</sup>

#### IV. CONCLUDING STATEMENT

24. To prove its case by a preponderance of the evidence, a movant needs to show that its position is supported by “[t]he greater weight of the evidence,” which is “evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.”<sup>69</sup> In hindsight, the Commission could have used more precise language to indicate its intention that the lower C-band reimbursement mechanism does not cover expenses incurred outside of the United States. In its subsequent proceeding regarding reallocation of the upper C-band, that is what the Commission did, presumably informed by this dispute.<sup>70</sup> That is not to say, however, that Anuvu has met its burden of proof to show that it was entitled to reimbursement for the relocation costs that it incurred at Raisting. To the contrary, it is apparent from both the unambiguous statement in footnote 535 of the *3.7 GHz Report and Order* as well as the text of the decision that the Commission did not intend to require overlay licensees to reimburse costs incurred outside of the United States. As Anuvu points out, most incumbents in the lower C-band needed to remain within the contiguous United States to continue existing levels of service. In the context of a wide-ranging proceeding affecting multiple incumbent users of the band with varying configurations and needs, it is not reasonable to expect that the Commission would have precisely addressed Anuvu’s admittedly rare situation without Anuvu having posed the question, either by commenting during the proceeding or submitting an *ex parte* inquiry. But the information that the Commission did impart provided notice sufficient to make Anuvu aware that its expenses at Raisting would not be reimbursed. Moreover, apart from that consideration, the Commission

<sup>64</sup> Anuvu Affirmative Case at para. 6.

<sup>65</sup> *Id.*, Exh. 2, Email correspondence from David S. Keir, Counsel to Anuvu, to Robin Wilson, RPC, sent Sept. 4, 2024 at 2:55pm.

<sup>66</sup> Anuvu Affirmative Case at paras. 7-8, 17-18.

<sup>67</sup> *Cost Catalog* at 7968 n.2 (“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”).

<sup>68</sup> Anuvu Affirmative Case at para. 21.

<sup>69</sup> *Preponderance of the Evidence*, Black’s Law Dictionary (12th ed. 2024).

<sup>70</sup> *Upper C-band (3.98-4.2 GHz)*, Notice of Proposed Rulemaking, GN Docket No. 25-59, FCC 25-78, 2025 WL 4060705 (Nov. 21, 2025) at para. 97.

made clear that operators seeking reimbursement for costs outside of the contiguous United States had to show that those costs were required as a direct result of the lower C-band transition. Even if the Commission had intended to allow an incumbent to make the case that it was required to incur international expenses, Anuvu had the option of relocating to a site within the contiguous United States. Thus, its move outside of the United States was not required and the associated expenses were not eligible for reimbursement.

25. In conclusion, after *de novo* review, the Presiding Judge finds as follows with respect to the issues designated by the *Anuvu HDO*:

Anuvu has not proved, by a preponderance of the evidence, that the Clearinghouse erred in its finding that Anuvu's additional claims were not compensable insofar as they relate to the Raisting site, which is located outside the United States;

Anuvu has not proved, by a preponderance of the evidence, that the Clearinghouse did not properly apply Commission guidance to the claims in question; and

Anuvu has not proved, by a preponderance of the evidence, that it should be reimbursed the disallowed amount of \$960,694.35.

## V. ORDERING CLAUSES

26. Accordingly, **IT IS ORDERED** that Anuvu Licensing Holdings, LLC, **IS NOT ENTITLED** to an additional \$960,694.35, consistent with the Commission's reimbursement mechanism for incumbent earth station operators affected by the reallocation of spectrum at 3.7-4.2 GHz in the contiguous United States for mixed wireless use pursuant to WT Docket No. 21-333.

27. **IT IS FURTHER ORDERED** that this hearing **IS TERMINATED**.<sup>71</sup>

FEDERAL COMMUNICATIONS COMMISSION



Jane Hinckley Halprin  
Administrative Law Judge

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<sup>71</sup> This Initial Decision shall become effective and this proceeding shall be terminated 50 days after release if exceptions are not filed within 30 days after release, unless the Commission elects to review the case on its own motion. 47 CFR § 1.276. Parties filing exceptions are asked to transmit a courtesy copy to the Commission's Office of General Counsel by email at [ALJHearingAppeals@fcc.gov](mailto:ALJHearingAppeals@fcc.gov).