

**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
	)	IB Docket No. 20-205

**ORDER**

**Adopted: August 20, 2020**

**Released: August 20, 2020**

By the Chief, Wireless Telecommunications Bureau:

1. In this Order, the Wireless Telecommunications Bureau (Bureau) partially grants a request filed by the Society of Broadcast Engineers (SBE)<sup>1</sup> seeking an extension of time for incumbent earth station operators to elect the lump sum reimbursement described in the *Final Cost Catalog Public Notice*.<sup>2</sup> The Bureau, acting on delegated authority, waives the deadline established by section 27.1419 of the Commission's rules to the extent necessary to extend the lump sum election deadline to September 14, 2020.<sup>3</sup>

2. On July 31, 2020, the Bureau released the *Final Cost Catalog Public Notice*, which included a final Cost Category Schedule of potential expenses and estimated costs associated with the transition, announced the lump sum amounts available to incumbent FSS earth station operators, and provided the process and deadline for those operators to elect to receive lump sum payments.<sup>4</sup> The Bureau established August 31, 2020, as the deadline for incumbent earth station operators to make their lump sum elections, consistent with the requirements of sections 27.1419 of the Commission's rules.<sup>5</sup>

3. On August 17, 2020, SBE filed a request for an extension of the lump sum election deadline until September 30, 2020.<sup>6</sup> SBE argues that, to determine whether to elect to take lump sum payment in lieu of reimbursement for actual relocation costs, an incumbent earth station operator must gather

<sup>1</sup> Request of SBE for Extension of Time to Submit Lump-Sum Cost Reimbursement Payment Elections, GN Docket No. 18-122, IB Docket No. 20-205 (filed August 17, 2020) (SBE Extension Request).

<sup>2</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*, GN Docket No. 18-122, IB Docket No. 20-205, Public Notice, DA 20-802 (WTB July 30, 2020) (*Final Cost Catalog Public Notice*).

<sup>3</sup> See 47 CFR §§ 0.131(a), 1.3, 0.331, and 27.1419.

<sup>4</sup> See *Final Cost Catalog Public Notice*.

<sup>5</sup> *Id.* at para. 39; 47 CFR § 27.1419.

<sup>6</sup> On August 13, 2020, ACA Connects—America's Cable Association (ACA Connects) filed a Request for Stay of the deadline for earth station operators to make lump sum elections pending resolution of a concurrently filed Application for Review of the *Final Cost Catalog Public Notice* and any ensuing judicial review. ACA Connects alternatively requests that the Commission grant a 14-day stay of the deadline, until September 14, to provide time for ACA Connects to seek a stay from the court of appeals. See Request of ACA Connects for Stay of August 31 Deadline for Electing to Receive Lump-Sum Payment, GN Docket No. 18-122 (filed Aug. 13, 2020) (ACA Connects Stay Petition); ACA Connects Application for Review of the Public Notice of the Wireless Telecommunications Bureau Setting Lump-Sum Payment Amounts, GN Docket No. 18-122 (filed Aug. 13, 2020). While the relief granted is similar to the alternate relief requested by ACA Connects (i.e., a 14-day stay), the Bureau does not address the merits of the ACA Connects Stay Petition in this order.

extensive information about its operations, perform complex analyses, and secure internal corporate approvals.<sup>7</sup> SBE contends that the *Final Cost Catalog Public Notice* provided “an inadequate amount of time for broadcast engineers and broadcasters, and other C-band Earth station operators who are entitled to reimbursement for costs incurred in the repack to make the necessary determinations, evaluate their options, and to complete the election process.”<sup>8</sup> SBE further justifies its waiver request by explaining that an extension is particularly necessary in light of challenges to gathering information posed by the COVID-19 pandemic and ensuing national emergency.<sup>9</sup> According to SBE, an extension will not adversely affect the transition process or the upcoming auction.<sup>10</sup>

4. As set forth in section 1.3 of the Commission’s rules, “[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”<sup>11</sup> While SBE did not explicitly request a waiver of section 27.1419 of the Commission’s rules, we find that SBE has shown good cause for an extension, and that the public interest will be served by granting an extension to September 14, 2020. We believe that extending the lump sum election deadline to September 14, 2020, will serve the public interest by providing incumbent earth station operators with additional time to make informed decisions about their lump sum elections and to gather the information necessary to make the required submissions. The public interest would not, however, be served by extending the election deadline beyond September 14, 2020.<sup>12</sup> Auction 107 is scheduled to begin on December 8, 2020, and applicants for 3.7 GHz licenses are required to submit short-form applications to participate in Auction 107 on or before 6:00 PM ET on September 22. Satellite operators, meanwhile, need to know which stations will select lump sum payments as they prepare to transition their operations into the 4.0-4.2 GHz band. We believe that a 14-day extension best balances the need for more time

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<sup>7</sup> SBE Extension Request at 4-5.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 3 (noting that “the *Public Notice* specified a mere 30 days within which [a] large number of broadcasters and broadcast engineers [ ] must evaluate, prepare and submit their election for lump sum payments, during the midst of the COVID-19 pandemic, which has kept many from their workplaces . . . .”); *see also* Executive Office of the President, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020), <https://www.whitehouse.gov/presidentialactions/proclamation-declaring-national-emergency-concerning-novelcoronavirus-disease-covid-19-outbreak>.

<sup>10</sup> *Id.* *See also* Comments of RCN Telecom Services, Grande Communications, LLC, WaveDivision, and Astound Broadband, LLC (collectively, RCN) on ACA Connects Stay Petition, GN Docket No. 18-122, IB Docket No. 20-205 (filed August 19, 2020), note 12 (supporting the ACA Connects Stay Petition and making favorable note of the SBE Extension Request).

<sup>11</sup> *See* 47 CFR §§ 0.131 (a), 0.331, and 1.3.

<sup>12</sup> We note that several parties opposed the ACA Connects Stay Petition and asserted that the Bureau should not stay enforcement of the lump sum election deadline. *See* Opposition of AT&T Services, Inc. to Request for Stay, GN Docket No. 18-122 (filed August 19, 2020); Opposition of CTIA to Request for Stay, GN Docket No. 18-122 (filed August 19, 2020); Opposition of Discovery, Inc., FOX Corporation, The Walt Disney Company, and Viacom CBS Inc. and the National Association of Broadcasters to Request for Stay, GN Docket No. 18-122, IB Docket No. 20-205 (filed August 19, 2020); Opposition of Intelsat License LLC to Request for Stay, GN Docket No. 18-122, IB Docket No. 20-205 (filed August 19, 2020); Opposition of SES Americom, Inc. to Request for Stay, GN Docket No. 18-122, IB Docket No. 20-205 (filed August 19, 2020); Opposition of Telesat Canada to Request for Stay, GN Docket No. 18-122 (filed August 19, 2020); Opposition of Verizon to Request for Stay, GN Docket No. 18-122, IB Docket No. 20-205 (filed August 19, 2020). The Bureau does not believe that the arguments raised in these oppositions undercut the public interest rationale for partially granting the extension requested by SBE, and the Bureau does not address the merits of the ACA Connects Stay Petition or the oppositions in this order. Only SES Americom, Inc. challenges the SBE Extension Request, which it characterizes as an improper collateral attack on the deadline established by rule. *Id.* at 1-2 n.4. For the reasons stated above, the Bureau has determined that SBE has satisfied the requirements for waiver of that provision of the rule.

raised by SBE with the need to facilitate a timely and efficient transition of the band. The Bureau, acting pursuant to its delegated authority, therefore, finds good cause to waive the filing deadline established by section 27.1419 of the Commission's rules to the extent necessary to facilitate this extension.

5. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act, as amended, 47 U.S.C. §§ 154(i) and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the Bureau WAIVES the deadline established under section 27.1419 of the Commission's rules to the extent described herein. The deadline for submitting lump sum elections is extended to September 14, 2020.

6. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

7. This action is taken pursuant to the authority delegated by Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Donald K. Stockdale  
Chief, Wireless Telecommunications Bureau