



PUBLIC NOTICE

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INTERNATIONAL BUREAU COMPLETES REVIEW OF LUMP SUM ELECTIONS

IB Docket No. 20-205
GN Docket No. 20-305

With this Public Notice, the International Bureau (the Bureau) announces the results of its updated review of lump sum elections submitted by earth station operators, including a table of those filings deemed accepted by the Bureau. The results of the Bureau's initial review of the lump sum elections were released on October 23, 2020.¹ With this Public Notice, we complete our review of all lump sum elections.

In the *3.7 GHz Band Report and Order* the Commission defined the criteria that earth stations must satisfy to be eligible as incumbent earth stations to receive reimbursement for their reasonable relocation costs.² The *3.7 GHz Band Report and Order* also established that incumbent FSS earth station operators may accept either: (1) reimbursement for their actual reasonable relocation costs to maintain satellite reception; or (2) a lump sum reimbursement "based on the average, estimated costs of relocating all of their incumbent earth stations" to the upper 200 megahertz of the C-band.³ The *3.7 GHz Band Report and Order* required that incumbent earth station operators (including any affiliates) elect the lump sum option for either all of their incumbent earth stations (within the contiguous United States) or none of them.⁴

On July 30, 2020, the Wireless Telecommunications Bureau released a Public Notice establishing the process for electing lump sum payments, including the specific information required to make a lump sum election and a requirement that the election include a six-part certification by a duly authorized

¹ *International Bureau Announces Review of Lump Sum Elections*, Public Notice, DA 20-1262 (IB Oct. 23, 2020) (*October 23 Lump Sum Election PN*).

² *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*). The *3.7 GHz Band Report and Order* specifically rejected a request to open an additional earth station filing window. *Id.* at 2391, paras. 120-21.

³ *3.7 GHz Report and Order*, 35 FCC Rcd. at 2427-28, paras. 202-203.

⁴ *See id.* at 2427-28, paras. 202-04 & n.550. Payment of lump sum amounts will be the obligation of 3.7 GHz Service licensees after completion of the 3.7 GHz auction and the licensing of winning bidders. *Id.* at 2553; 47 § CFR 27.1418.

representative with authority to bind the earth station.⁵ The Public Notice required that incumbent earth station owners make their lump sum payment election no later than August 31, 2020, a date that was later extended until September 14, 2020.⁶

Approximately 2,000 filings from more than 1,500 separate filers were submitted in ECFS by the September 14, 2020, deadline.⁷ The Bureau has reviewed all of these submissions for compliance with the lump sum requirements—including the requirement that an earth station operator (including all affiliates) select the lump sum option for either none or all of its incumbent earth stations. The Bureau has compared the information in the lump sum filings against its incumbent earth station information and has conducted extensive outreach where that review has raised questions.⁸

During the course of the review, Bureau staff have requested filers electing to receive lump sum payments to make filings to bring the information in their lump sum elections and the information in IBFS into conformance. Those filings have included errata to lump sum elections in ECFS to revise the information included in those filings, as well as a substantial number of filings in IBFS to correct the information in that licensing system and therefore in the incumbent earth station list. Those corrective filings were necessary for the Bureau to accept the requested lump sum elections.

The results of the Bureau's review are shown in the attached Table of Lump Sum Elections. In particular, as of the release of this Public Notice, the Bureau has Accepted 1,457 out of a total of 1,511 lump sum elections, or 96.4% of elections.⁹ As explained in greater detail below, we deny another 37 lump sum elections, or 2.4% of elections. And we conditionally accept the remaining 17 lump sum elections, contingent upon these entities' representations to FCC staff that they will make filings to correct information in their elections and/or IBFS, which must be made on or before **November 9, 2020**. This update should provide 3.7 GHz band licensees with even greater certainty regarding future use of the band.

The Table is organized by the name of the entity making the lump sum election. It then lists the names of the one or more registrants or licensees in the Incumbent Earth Station List included in that lump sum election. A lump sum election is listed as "Accepted" in the Status column if, after any necessary revisions have been made in the lump sum filing and/or in IBFS, a lump sum election has been found to satisfy the basic requirements to qualify for that election, including the requirement that the

⁵ *Wireless Telecommunications Bureau Releases Final Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 7967 (WTB 2020) (*July 20 Lump Sum Election PN*).

⁶ *Wireless Telecommunications Bureau Extends C-band Lump Sum Election*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 8856 (WTB 2020).

⁷ The Bureau has reviewed under the lump sum election standards those initial filings carried in ECFS as received on September 15, 2020, as well as those postmarked on or before September 14, 2020. The Bureau also has reviewed the resubmitted portions of the paper filing by James P. Baxley, Jr., on behalf of Gulf Coast State College that apparently were misplaced within the FCC. The Bureau has treated as "denied" the lump sum election filing of Bond Broadcasting, Inc., which was filed on September 18, 2020, where the lateness was attributed to an unspecified "technical malfunction."

⁸ The Bureau's initial review, released on October 23, compared the elections to the August 3 incumbent earth station list. Its further review has incorporated changes to that list reflected in the October 23rd updated incumbent earth station list and subsequent IBFS filings.

⁹ We consider as a single lump sum election those cases where the same earth station operator has made multiple earth station filings. For instance, some operators filed separately for each individual earth station.

election include all of the earth station operator's incumbent earth stations.¹⁰ In those cases, the information in the lump sum election should be consistent with the information contained in the October 23 incumbent earth station list, as supplemented by additional filings in IBFS.¹¹ More detailed information on the lump sum elections can be found in the relevant election filing(s) in ECFS.

In addition, there are cases in which the party filing for a lump sum election has committed to Bureau staff to make filings that will remedy issues found with its election that otherwise would have resulted in denial, but those filings have not yet been submitted in ECFS and/or IBFS. These filings are marked "Accepted" with an asterisk (Accepted*). We will entertain corrective filings in these cases **no later than Monday, November 9, 2020**. After that time, if corrective filings are not submitted, these lump sum elections will be denied.

In some cases, a recent assignment or sale of an incumbent earth station has resulted in a mismatch between the name of the earth station operator on the October 23 incumbent earth station list, and the name of the party making the lump sum election. In those cases, the earth station operators have filed (or should file) post-consummation notifications in IBFS as soon practicable, but **no later than Monday, November 9, 2020**, in order to accurately reflect the current earth station registrant or licensee.¹²

Finally, the attached Table identifies lump sum election requests that the Bureau has denied as not satisfying the requirements for a valid election. Reasons for denial include: (1) lack of the required certifications;¹³ (2) failure to include all of an operator's antennas found in the October 23 incumbent earth station list, as supplemented; and (3) inclusion in the lump sum election of antennas that are not included on the October 23 incumbent earth station list, as supplemented.¹⁴ In cases of denial, all of an earth station operators' incumbent earth stations will be eligible for reimbursement for reasonable relocation costs incurred as a result of the C-band transition, as set out in the *3.7 GHz Report and Order*.

The "Intended Action" column indicates whether a lump sum filer intends to transition its antennas to the Upper 200 megahertz of the C-band or discontinue use of the C-Band. That decision can

¹⁰ The Bureau has made no determination regarding the accuracy of a lump sum filing's representations regarding: the category of lump sum election for each registered antenna (*e.g.*, Receive Only ES Single-feed; Receive Only ES Multi-feed; Small Multi-beam (2-4 beam) ES, etc.), whether the earth station site is an MVPD site, or the total lump sum amount claimed for an earth station site. If a lump sum election includes not only incumbent earth stations, but also additional earth stations for which a waiver was requested and denied, the lump sum election is Accepted when the requirements are met for the incumbent earth stations. Two lump sum elections – those of the Church of Jesus Christ of Latter-Day Saints and of Entravision -- fall into this category.

¹¹ To the extent that there are inadvertent errors in the information in IBFS included in the updated incumbent earth station list, such as those resulting from delays in processing recent filings, the Bureau will make any necessary corrections.

¹² To the extent that an operator assigns an incumbent earth station in the future, the operator should continue to submit post-consummation notifications in IBFS, as required by the Commission's rules. They should also provide notice of the assignment and notification in ECFS in this docket.

¹³ *July 20 Lump Sum Election PN*, at para. 42.

¹⁴ A lump sum election is treated as "Denied" if the election was late-filed or if it included only earth stations that failed to qualify for incumbent status. An election is "Denied for Antenna/Quantity Mismatch" if the antennas included in the election do not match the incumbent earth stations for the party filing the election. An election is "Denied for Lack of Certification" if the election does not include the certifications required by the *Lump Sum Election PN*, at para. 42. An election is "Denied for Both" if it has both of those deficiencies. We exclude from the Table the filing by Emery Telcom that stated its intent not to take the lump sum election as well as the lump sum election filing made by WBHQ Columbia, LLC, which it later withdrew.

vary by antenna, so the column includes a “Combination” designation where the filer has indicated that intent.¹⁵

Finally, as many registrants and licensees have been updating information in IBFS in connection with their lump sum elections and some will be filing additional updates no later than November 9, 2020, the Bureau plans to release in November an updated incumbent earth station list and lump sum election table to reflect those updates, in conformance with the limited additional parameters we have set forth in this Public Notice.

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¹⁵ For instance, the Church of Jesus Christ of Latter-Day Saints intends to discontinue use of the C-band for all of its incumbent earth stations with the exception of five antennas in Riverton, Utah.