February 12, 2021

Legal Memorandum

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# **April 19, 2021**: FCC Deadline for “Inactive” and “Unresponsive” Incumbent Earth Station Operators to File in C-band Docket

# or Lose Authorization and Incumbent Status

The FCC’s International Bureau issued a [Public Notice](https://docs.fcc.gov/public/attachments/DOC-369398A1.pdf) (the “Notice”) in which it announced that it received from the “C-band Relocation Coordinator,” RSM US LLP (“RSM”), two important lists: (1) [one](https://docs.fcc.gov/public/attachments/DOC-369398A3.xlsx) list comprised of earth station operators (i.e., broadcasters with C-band downlink dishes) whose earth station(s) qualify for incumbent status but whom RSM and/or incumbent C-band satellite operators have been unable to contact regarding the forthcoming C-band transition; and (2) [one](https://docs.fcc.gov/public/attachments/DOC-369398A2.xlsx) list comprised of earth station operators who have one or more earth station antennas (i.e., C-band downlink dishes) that qualified for incumbent status but have subsequently been reported as no longer operational.

The Notice requests that all earth station operators with qualifying incumbent earth stations review these lists and, if any operator discovers that it appears on either list when it believes that it should not, **file by April 19, 2021, a notice with certain required information in the C‑band incumbency docket (IB Docket No. 20-205).**

**The Notice indicates that operators who appear on either list but who do not make this required filing will: (1) have the earth station authorizations that appear in the lists terminated by operation of law; (2) have those authorizations terminated in the International Bureau Filing System; and (3) have their listed earth stations removed from the incumbent earth station list, thus forfeiting interference protection and the possibility of reimbursement for the costs of transitioning those earth station in the forthcoming C-band transition.**

*Background*. You may recall our legal memorandum from earlier this year in which we reported that some C-band earth station operators had received a physical or electronic letter bearing the heading “C-band Relocation Coordinator” and requesting a response by mid-January. Such correspondence was generally sent to earth station operators who have one or more “antennas for which none of the C-band satellite operators . . . has taken responsibility for implementing the transition.” Soon after the response deadline in that correspondence, RSM (i.e., the the C-Band Relocation Coordinator) submitted a filing in the FCC docket related to the incumbent status of transitioning earth stations; that RSM filing included the two lists that are described above—the two lists that the FCC subsequently adopted in the Notice.

*How Can I Check the Lists?* The lists are currently available as “[Attachment A](https://docs.fcc.gov/public/attachments/DOC-369398A2.xlsx)” (the “Inactive List”) and “[Attachment B](https://docs.fcc.gov/public/attachments/DOC-369398A3.xlsx)” (the “Unresponsive List”)—in either Microsoft Excel or PDF format—at the following link: <https://www.fcc.gov/document/ib-identifies-inactiveunresponsive-c-band-incumbent-earth-stations>. Both lists are arranged in alphabetical order. However, we recommend using several different search methods to confirm that none of your earth stations appear on the list(s), such as searching each list not just for your registrant/licensee name (the “ApplicantName” field), but also for you earth station’s call sign (the “Callsign” field) and registration number (the “FileNumber” field).

*What if One or More of My Earth Stations Incorrectly Appears on the Lists?* Again, per the Notice, no later than April 19, 2021, you must submit a filing with required information in the FCC’s IB Docket No. 20-205. Such filing must include at least the following information:

* A statement that your earth station antenna(s) that appear on the list remain operational.
* For those operators who appear on the “Unresponsive List”:
  + A statement that your facilities intend to participate in the C-band transition.
  + A statement identifying the satellite from which each of your earth station antennas that appears on the list receives service.

*What if One or More of My Earth Stations Appear(s) on the Inactive List, and I Agree that the “Inactive” Classification is Correct?* First, double-check that you agree with the “Inactive” classification. **For the rest of this paragraph to apply to you, you must be an earth station operator with an earth station that (a) appears on the “Inactive List,” (b) has, in fact, ceased operations, and (c) will continue to be non-operational for more than 90 days.** If you’ve double-checked, and agree that this extremely limited circumstance applies to you, then the Notice directs you to make a filing in the International Bureau Filing System to remove those antennas as “no longer operational,” as required by FCC rule. However, we strongly recommend that you contact your communications counsel before making such a filing.

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# **One-Month Warning:** **March 13, 2021**, Deadline for LPTV

# and TV Translator Stations to Request Final Extension of Digital Construction Permits for Forthcoming Digital Transition Deadline

You may recall that the date by which LPTV and TV translator stations must transition to digital operations—and terminate all analog television operations—is **July 13, 2021**. But there’s another, earlier deadline of which such stations should be aware: LPTV and TV translator stations experiencing delays in completing their digital facilities in anticipation of that upcoming July 13 deadline have until **March 13, 2021**, to seek one **final** extension of time of their digital construction permits. (And, although the technical deadline is extended by FCC rule to March 15, 2021, because March 13th falls on a Saturday, we strongly recommend filling any such extension requests as soon as possible, prior to March 13, 2021.)

Any such final extension request must be for no more than 180 days and must include an exhibit demonstrating that (1) the failure to meet the construction deadline is due to circumstances that were either unforeseeable or beyond the licensee’s control; and (2) the licensee has taken all reasonable steps to resolve the problem expeditiously. Examples of extension-qualifying circumstances include, but are not limited to: (a) delays in obtaining necessary zoning; (b) inability to obtain equipment; or (c) financial hardship.

As a reminder, **no analog operations will be permitted past the July 13, 2021, deadline**—stations that have not yet constructed a digital facility by 11:59 PM local time on July 13, 2021, must therefore remain silent until construction is completed. Accordingly, any licensee who receives an extension to a digital construction permit deadline that extends past July 13, 2021, is only permitted to continue to build its digital facilities, and is not permitted to continue to broadcast an analog signal. Accordingly, stations who find themselves in such a circumstance must also comply with the Commission’s rules governing periods of broadcast silence, including by submitting a notification of silence to the Commission after 10 days of silence, and requesting special temporary authority to remain silent (i.e., a silent STA request) for any period of silence expected to last for more than 30 days.

If you’re looking for further information regarding all of us, you may wish to refer to a July 2020 [Public Notice](https://docs.fcc.gov/public/attachments/DA-20-724A1.pdf) (the “Notice”) issued by the Media Bureau that discusses the March 13, 2021, extension deadline in detail, along with other important issues surrounding the forthcoming digital transition deadline. We encourage you to review that Notice and to continue to plan ahead to ensure the successful and timely transition of your LPTV and TV translator stations to digital operation.

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*Tim Nelson, Editor*

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This Legal Review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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