

**REQUEST FOR WAIVER OF TEMPORARY FILING FREEZE**

By this application, TelAlaska Cellular, Inc. (“TelAlaska”) hereby petitions the International Bureau (the “Bureau”) to waive the temporary freeze on the filing of new applications for fixed- satellite service (“FSS”) earth station licenses in the 3.7-4.2 GHz Band (the “Filing Freeze”).<sup>1</sup> A waiver in this instance is appropriate as it will “serve the public interest and not undermine the objectives of the freeze.”<sup>2</sup>

Section 1.925 of the FCC rules empowers the Commission to waive specific requirements of its rules upon request if (a) the underlying purpose of the rule would not be served or would be frustrated by the application of the rule, and a waiver would serve the public interest; or (b) unique or unusual circumstances are presented such that it would be inequitable, unduly burdensome or contrary to the public interest to enforce the rule, and the applicant has no reasonable alternative.<sup>3</sup> A waiver is appropriate here because TelAlaska is facing unique circumstances that warrant a deviation from the Filing Freeze and such deviation will serve the public interest.<sup>4</sup>

Providing mobile and broadband service to Alaska is particularly challenging. Such

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<sup>1</sup> TelAlaska’s discovery of the need for a request for waiver to accompany its application for a new C-Band Earth Station arose during the project planning phase. *See Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band, 90 Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, Public Notice, DA 18-398 (rel. Apr. 19, 2018) (“Filing Freeze PN”).

<sup>2</sup> *Id.* at 3.

<sup>3</sup> 47 C.F.R. §1.925(b)(3).

<sup>4</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

challenges include “its remoteness, lack of roads, challenges and costs associated with transporting fuel, lack of scalability per community, satellite and backhaul availability, extreme weather conditions, challenging topography, and short construction season.”<sup>5</sup> Therefore, TelAlaska must utilize a variety of technologies in order to provide dependable services, and often must do so in innovative ways. This includes using FSS in conjunction with its terrestrial, mobile, and fixed wireless networks. TelAlaska relies on the 3.7 GHz band to provide communications services to rural Alaska.

In this instance, grant of a waiver of the Filing Freeze is necessary for TelAlaska to continue providing reliable communications services to TelAlaska’s customers, and would serve the public interest. Here, TelAlaska is seeking to file for a new FSS Earth Station in the C-Band to replace capacity currently utilized on a third-party vendor’s telecommunications port (teleport) located in California. The current state of the teleport in California offers no growth opportunity due to the size and capacity of the antenna. The teleport needs to grow to meet demand of customers statewide. It is uneconomical for TelAlaska to grow any broadband capabilities or improve quality of services without the vendor building additional teleport capacity or TelAlaska building and operating a teleport located in Alaska where middle mile fiber connecting to the Lower 48 by multiple carriers is accessible. TelAlaska has the resources to build and operate the teleport within the state. A new Alaska teleport allows TelAlaska to respond to the needs of its customers statewide in an economic and efficient manner. TelAlaska will no longer need to

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<sup>5</sup> *Connect America Fund; Universal Service Reform – Mobility Fund; Connect America Fund - Alaska Plan*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139, 10162, ¶ 72 (2016) (“*Alaska Plan R&O*”) (citing *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17829, ¶ 507 (2011) (“*USF/ICC Transformation Order*”), *aff’d sub nom. FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014)).

provision additional transport for non-internet traffic between California and Anchorage Alaska, thus reducing its actual cost of communications in rural Alaska. This teleport is the link providing not only mobile wireless voice and broadband services, but also supports telehealth and school access services much needed on Alaska Native Lands throughout the state. This new teleport enables TelAlaska to respond competitively due to the reduction in latency and operating costs to e-rate and rural healthcare requests. The rural villages, where TelAlaska is able to bring broadband via satellite, rely on numerous services, including ecommerce, provided over the internet. Many villages are landlocked, and residents are unable to travel to hub communities or urban areas for their everyday needs. This new teleport enables TelAlaska to bring internet to their homes.

TelAlaska has reviewed alternative satellite bandwidth. Ku-Band VSAT stations are geographically not available in all markets, limiting broadband deployment opportunities. Access to Ka-Band is lacking and none of the major Ka HTS operators are planning any new satellites that will be able to serve Alaska in the next 5-7 years. Ka-Band is not proven in Northern part of Alaska and not viable near or above the Arctic Circle. The Ka-Band does not have the atmospheric penetration capability of C-Band and is vulnerable to extended outages due to weather. TelAlaska now seeks this waiver of the Filing Freeze to allow TelAlaska to utilize these operations on a permanent basis. Without a grant of this waiver, remote residents in Alaska continue to lack access to modern communications services.

In addition, grant of this application will not undermine the objective of the Filing Freeze. The International, Public Safety and Homeland Security, and Wireless Telecommunications Bureaus state that this objective is to limit “the potential for speculative applications that might be filed in anticipation of potential future actions by the Commission.”<sup>6</sup> That is certainly not the

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<sup>6</sup> Filing Freeze PN at 3.

case here. As noted above, allowing TelAlaska to file and register for a new C-Band Earth Station would permit TelAlaska to continue to offer essential services to rural and remote areas throughout Alaska. TelAlaska has no reasonable alternative, as the C-Band presents the only current economically viable option for providing such communications services to these villages on a going-forward basis as attempts to use microwave operations or the Ku-band have failed (*as noted above*). TelAlaska has a demonstrated need for this authorization to provide necessary services now and in the future. Accordingly, for good cause shown, TelAlaska requests a waiver of Filing Freeze, consistent with the request for relief set forth herein, and any other such relief as the Bureau may deem proper.