

REQUEST FOR WAIVER OF TEMPORARY FILING FREEZE

By this application, in an abundance of caution, GCI Communication Corp. (“GCI”) hereby petitions the International Bureau (the “Bureau”) to waive the temporary freeze on the filing of modifications for fixed-satellite service (“FSS”) earth station licenses in the 3.7-4.2 GHz Band (the “Filing Freeze”).¹ A waiver in this instance, if necessary, is appropriate as it will “serve the public interest and not undermine the objectives of the freeze.”²

Pursuant to GCI’s overall review of its earth station licenses in connection with the Filing Freeze, it has discovered that it needs to correct a number of its earth stations’ geographic coordinates for accuracy. Accordingly, it is filing this modification application prior to the October 17, 2018 filing deadline.³ For this earth station, the modification involves a change in

¹*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”); *see also International Bureau Announces 90-Day Extension of Filing Window, to October 17, 2018, to file Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band; Filing Options for Operators with Multiple Earth Station Antennas*, GN Docket Nos. 17-183, 18-122, Public Notice, DA 18-639 (IB June 21, 2018). The Commission specifically noted in a further public notice that “[w]e note that although the Public Notice include an exception for modifications to correct the location or other required data in the IBFS file, more significant modifications, such as those to include additional antennas at an earth station site, must be filed before the October 17, 2018 deadline.”

² *Id.* at 3.

³ GCI understands that this change is considered to be a major modification to its C-band earth station licenses (for affected stations) pursuant to 47 CFR §25.117 and 47 CFR §25.118. Further, this will require GCI to perform new frequency coordination studies for these stations. GCI initiated frequency coordination for all similarly-situated licensed in September 2018, and it expects to have such coordination completed by the end of the year. It is filing these applications now (due to the October 17, 2018 deadline) in anticipation of frequency coordination being completed on a prompt basis. GCI has initiated the frequency coordination for each application, and will update each application with the applicable report once it is available. To the extent that GCI needs a waiver to provide such frequency coordination updates, it requests one from the Commission pursuant to this filing.

the earth station's geographic coordinates of more than +/- 1 second in latitude or longitude from the filed coordinates.⁴

Pursuant to the Filing Freeze PN, the International Bureau specifically stated that the freeze "does not extend to . . . modifications to correct location or other data required in the earth station file."⁵ Accordingly, GCI's modification is consistent with the Filing Freeze PN.

However, while the Filing Freeze PN does not limit the modifications not subject to the freeze to only minor modifications, GCI files this waiver, in an abundance of caution, to ensure that its proposed modifications are accepted by the Commission.

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.⁶ A waiver is appropriate here because GCI is facing unique

⁴ Due to the need to switch to a different satellite in order to continue to provide continuous services going forward to customers (due to a current satellite reaching end-of-life), GCI is also modifying its earth station license to reflect potential associated technical ramifications. Although GCI will not use this new spacecraft until the end of the year (and is only filing these modifications now to meet the October 17, 2018 deadline), it may need different technical specifications to properly continue operations for consumers due to the new spacecraft. Accordingly, out of an abundance of caution, GCI has also modified its application to (a) increase the size of the transmitter to 400-watts; and (b) change the emissions designator, in order to reflect its current understanding of the potential attributes of this future satellite. These modifications are also reflected in the frequency coordination studies for these stations.

⁵ Filing Freeze PN at 3.

⁶ 47 C.F.R. §1.925(b)(3).

circumstances that warrant a deviation from the Filing Freeze and such deviation will serve the public interest.⁷

Providing mobile service to Alaska is particularly challenging. Such 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.”⁸ Therefore, GCI 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. GCI’s relies on the 3.7 GHz band in order to provide its FSS operations, and has a very long history of providing C-band satellite communications solutions in Alaska in ways that advance the satellite technology space in an effort to provide communications services in rural Alaska.

Here, GCI is updating its existing earth station licenses to reflect accurate coordinates, consistent with the Commission’s goals related to the Filing Freeze. Such a grant 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

⁷ *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).

⁸ *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)).

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by the Commission.”⁹ They also stated their obligation to allow for “modifications to correct location or other data required in the earth station file,” and they did not limit such language to only minor modifications. As noted above, allowing GCI to modify its existing earth station licenses to reflect accurate data is specifically responding to the request made by the Bureaus for such accurate data.

Accordingly, for good cause shown (and to the extent necessary), GCI, in an abundance of caution, 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.

⁹ Filing Freeze PN at 3.