

Introduction

University of Maine System, former registrant of receive-only earth station E040065,¹ hereby respectfully requests a waiver of the filing freeze on applications for new or modified fixed satellite service earth stations in the C Band.² Waiver of the freeze would be consistent with the purposes of the freeze and would not impose a burden on any party.

Background

On April 19, 2018, the International, Public Safety and Homeland Security, and Wireless Telecommunications Bureaus announced a temporary freeze on the filing of new or modification applications for, among other things, receive-only earth station registrations in the C Band, and a limited filing window for existing earth stations that was subsequently extended through October 17, 2018.³ The purpose of the filing freeze is to “preserve the current landscape of authorized operations in the 3.7-4.2 GHz band pending Commission action as part of its ongoing inquiry into the possibility of permitting mobile broadband use and more intensive fixed use of the band.”⁴

WMPG is a community radio station in Portland licensed to the University of Maine System and operated by a mix of students from the University of Southern Maine and local volunteers. In February 2004, WMPG registered a receive-only earth station used to receive satellite-delivered public radio programming for broadcast on WMPG. WMPG filed this registration in a WMPG-specific FRN, rather than the system-wide FRNs the University of Maine System typically uses for its broadcast and non-broadcast licenses, and WMPG did not alert the System’s counsel of the filing. The registration for E040065 expired on February 2, 2019. Counsel for the University of Maine System discovered the expired registration in connection with its preparations for the May 28, 2019, deadline to certify the accuracy of C Band earth stations,⁵ after the period to request reinstatement of E040065 had run.

Request for Waiver

University of Maine System respectfully requests a limited waiver of the filing freeze on new C Band earth station registrations to permit it to file the instant application for a registration

¹ As discussed herein, E040065 was initially registered in the name of WMPG, a broadcast radio station licensed to the University of Maine System.

² 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 the 3.7-4.2 GHz Band, Public Notice, 33 FCC Rcd 3841 (IB, PSHSB, WTB 2018) (“*Freeze Notice*”).

³ *Id.*

⁴ *Id.*

⁵ Deadline for Submission of Information on Earth Station and Satellite Use of the 3.7-4.2 GHz Band, Public Notice, DA 19-278 (IB, WTB, OET rel. Apr. 11, 2019).

of the facilities previously registered under call sign E040065.⁶ University of Maine System requests that this registration be granted call sign E040065 and be considered an “incumbent” registration for the purposes of the Commission’s proceeding regarding potential flexible use of the C Band.⁷

The FCC may grant a request to waive its rules for good cause shown.⁸ A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁹ In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁰ Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.¹¹

Waiver of the filing freeze is appropriate here. The existing registration for these facilities lapsed due to an inadvertent administrative oversight resulting from the irregularities in the initial filing (*i.e.*, in a secondary FRN account, using a different licensee name). If the requested waiver is granted, University of Maine System commits to take steps to ensure that similar oversights do not occur in the future, such as conducting a review of its records to identify all earth station facilities in service and having outside counsel track this authorization and associated deadlines in its database.

Moreover, grant of the requested waiver would be consistent with the purpose of the filing freeze. Specifically, E040065 was an active registration on the date the freeze was announced (April 19, 2018) and formed part of the then-current “landscape of authorized operations” in the C Band that the freeze was designed to preserve. Thus, grant of the requested waiver would help preserve the landscape of authorized operations that existed in April 2018 by allowing the facilities associated with E040065 to regain registered status.

Finally, waiver of the filing freeze in these special circumstances would serve the public interest by ensuring that Portland-area public radio listeners will not lose access to the satellite-delivered programming they currently receive. WMPG is funded in part by financial support from its listeners and protecting the registered, incumbent status of E040065 will help ensure that these listener donations to WMPG can be used to support the station’s locally-produced

⁶ University of Maine System also requests a waiver of the frequency coordination requirement based on the incumbent status of this facility and the acknowledged “unnecessary economic burden” of the requirement. *See Freeze Notice*, 33 FCC Rcd at 3844.

⁷ *See Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 6915, 6924, 6926, 6928 (2018) (“*Order*”) (proposing protection for only “incumbent” earth station registrations).

⁸ 47 C.F.R. § 1.3.

⁹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

¹¹ *Northeast Cellular*, 897 F.2d at 1166.

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programming (rather than the expense of constructing a new program delivery mechanism) while ensuring uninterrupted reception of the station's satellite-delivered programming.

Conclusion

For the reasons set forth above, grant of the instant waiver request and processing of this application would serve the public interest. University of Maine System respectfully requests that the Commission process this application without delay.