

On October 16, 2018, Alpha Media Licensee LLC (“Alpha”) filed a “network” type registration for 41 of its C-band receive-only earth station sites across the country, and the Commission granted the registration on July 7, 2020. See SESREG2018101605858, Call Sign E200548. The FCC included all the registered sites on its Final List of incumbent C-band earth stations. See *International Bureau Releases List of Incumbent Earth Stations In The 3.7-4.2 GHz Band In The Contiguous United States*, Public Notice, DA 20-823, Appendix (Aug. 3, 2020) (“Final Incumbent Earth Station List”). Each registered site is used in conjunction with broadcast radio operations in its vicinity.

Subsequent to Alpha filing the registration, Alpha assigned its Gulfport, Mississippi location to Telesouth Communications, Inc. (“Telesouth”) and its Peoria, Illinois location to Midwest Communications, Inc. (“Midwest,” and together with Telesouth and Alpha, the “Parties”), each as part of sales of radio station clusters in those areas. On the E200548 registration, Gulfport is location 19 and Peoria is location 33.

Limitations in IBFS prevent the Parties from notifying the Commission of the assignment of some, but not all, of a “network” registration’s locations under FCC Rule 25.119(j). Instead, and per discussions with FCC staff, notification of the assignments will occur as part of three filings:

1. A letter filed by Alpha in IBFS seeking to remove the Gulfport and Peoria sites from its network registration;
2. A new registration application filed by Telesouth for the Gulfport location, with the same technical characteristics as indicated in the Alpha network registration for the site; and
3. A new registration application filed by Midwest for the Peoria location, with the same technical characteristics as indicated in the Alpha network registration for the site.

The result of the process will produce the same results in practice as it would under a standard 25.119(j) assignment notification:

- The Commission will remove the Gulfport and Peoria sites from Alpha’s network registration, Call Sign E200548;
- Telesouth will be the registree for a new earth station call sign in Gulfport;
- Midwest will be the registree for a new earth station call sign in Peoria; and
- Both the Telesouth/Gulfport earth station and the Midwest/Peoria earth station will retain incumbent status for purposes of the C-band transition.

Notifications of earth station registration assignments are fee exempt. Thus, as the Parties file this series of applications due to limitations in IBFS, both Telesouth and Midwest have selected “n/a” as the fee category on the registration applications.

For administrative convenience, the Parties attach the same exhibit to each application.

Accordingly, to effectuate the assignment notification, the Parties also request waiver of the following rules, per FCC Rule 1.3, to the extent necessary: the 30-day notification requirement of FCC Rule 25.118(a); the 30-day notification requirement of FCC Rule 25.119(j); and the ban on new applications for C-band earth station registrations, per FCC Rules 25.138(a) and (b).

The agency may grant a waiver for good cause shown.¹ The Commission typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.² In granting a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.³ Waiver is therefore appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

Good cause exists to grant waiver here. First, the absence of timely notification was inadvertent, as the Gulfport and Peoria earth station locations were each part of larger transactions. Specifically, Alpha and Telesouth filed for Commission permission to assign seven Gulfport, Mississippi-area radio stations from Alpha to Telesouth on December 13, 2018. See CDBS Lead File No. BAL-20181213ABM. The Commission granted the assignment February 6, 2019, and the transaction, including assignment of the Gulfport earth station location, consummated on March 1, 2019. Separately, Alpha and Midwest filed for Commission permission to assign nine Peoria, Illinois-area radio stations from Alpha to Midwest on February 5, 2019. See CDBS Lead File No. BAL - 20190205ABB. The Commission granted the assignment March 13, 2019, and the transaction, including assignment of the Peoria earth station location, consummated on April 30, 2019. The series of applications filed here serves to correct the agency's records regarding the earth station sites' operators.

Second, the Commission has permitted waiver of the 30-day period for notification of receive-only earth station assignments in similar situations. See IDBS File No. SES-ASG-20200819-00895, Call Sign E170001 (granted Aug. 20, 2020). Third, given that registration of C-band earth stations remains optional, the impact of the requested waiver is *de minimis*.

Finally, the limitations of IBFS justify waiver of FCC Rules 25.138(a) and (b) that would otherwise prevent Telesouth and Midwest filing their respective registrations. If IBFS were able to process partial assignments of network registrations, Telesouth and Midwest would not have to file "new" registrations as part of a multi-step process. By extension, the registrations are not really "new," as the information provided in the respective registrations matches the information for the sites in Alpha's existing network registration.

For this same reason, the Telesouth/Gulfport site and Midwest/Peoria site should retain incumbent status. Through the inclusion of these sites in the Final Incumbent Earth Station List, C-band auction participants have already been put on notice of the existence of these sites for reimbursement and protection purposes, so retention of incumbent status will have no impact on bidding behavior. Grant serves the public interest by updating the agency's records and avoids causing any service interruptions to the listeners of the radio stations operated in conjunction with these earth stations.

Accordingly, for these reasons, waiver is warranted here.

¹ 47 C.F.R. § 1.3.

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

³ *WAIT Radio v. FCC*, 419 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.