

EXPLANATORY STATEMENT AND REQUEST FOR WAIVER OF C-BAND FREEZE

Through this application, Anuvu Licensing Holdings LLC (“Anuvu”) seeks Commission authority to decommission the currently licensed C-band transmit/receive antenna located at the National Aeronautics and Space Administration (“NASA”) Katherine Johnson IV & V Facility and to relocate that antenna site to the nearby National Oceanographic and Atmospheric Administration (“NOAA”) Robert H. Mollohan Research Center, which is located approximately a quarter mile away within the I-79 Technology Park at Fairmont, West Virginia.¹ At that location, Anuvu proposes to construct and operate a substantially identical 7.3-meter C-band antenna.

To facilitate this antenna relocation, Anuvu seeks a limited waiver of the Commission’s current temporary freeze on new and modified authorizations in the C-band downlink band at 3700 to 4200 MHz (“C-Band Freeze”). When it imposed the freeze in 2018, the Commission stated that it applied broadly to “the filing of new or modification applications for earth station licenses, receive-only earth station registrations, and fixed microwave licenses in the 3.7-4.2 GHz band,”² subject to only a few exceptions, none of which is applicable here. The freeze was expressly intended “to preserve the current landscape of authorized operations in the 3.7-4.2 GHz band” pending the reallocation of a portion of the band to more intensive terrestrial mobile uses.³

In announcing the C-band Freeze, each Bureau committed to “consider requests for waiver of this freeze on a case-by-case basis and upon a demonstration that waiver will serve the public interest and not undermine the objectives of the freeze.”⁴ In general, a waiver of Commission rules or policies is appropriate where the facts in a particular instance would make strict compliance with a rule or policy inconsistent with the public interest.⁵ There is good cause to waive the restriction in this instance as such waiver will affirmatively promote the public interest in multiple ways absent any countervailing negative impact with respect to the objectives of the C-Band Freeze.

As a threshold matter, the subject earth station serves as a backup teleport for the NOAA Advanced Weather Interactive Processing System (AWIPS). As described by the National Weather Service (“NWS”), AWIPS “is a technologically advanced information processing, display, and

¹ The I-79 Technology Park campus is the location for several important Federal government missions, including operations of NASA, NOAA and the Federal Bureau of Investigation.

² FCC Public Notice, “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,” 33 FCC Rcd 3841, 3841 & 42 (IB/PSHSB/WTB Apr. 19, 2018) (“*C-Band Freeze Public Notice*”).

³ *Id.*

⁴ *Id.* at 3843.

⁵ *See, e.g., Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

telecommunications system that is the cornerstone” of NWS’s current operations, providing “an interactive computer system that integrates all meteorological and hydrological data, and all satellite and radar data” to enable “more accurate and timely forecasts and warnings.”⁶ For this reason, the Fairmont earth station performs a vital Federal government function by allowing the AWIPS network to ensure 24/7 availability for the transmission of critical weather information that the NWS delivers to well over one hundred downlink locations throughout the country.

Second, the normal downlink operations at this location are limited because its main purpose is as a backup teleport. Typically, transmit/receive operations occur at this location for one day each month, and occasionally for brief periods at other times for testing purposes. This level of use is expected to continue at the new location.

Third, the new site is at a higher elevation on the hillside where the federal campus is located, and sits farther away from I-79 itself, as well as the more highly trafficked business, retail and residential areas that are on the other side of the highway. Accordingly, there is relatively lower potential for any harmful interference at this location.

Finally, the proposed relocation does not otherwise create any potential for new interference because it is simply a one-for-one replacement of an existing C-band downlink location with a new site that has, in even the worst-case scenario, no greater potential for interference than the existing location. Accordingly, operation at the new location is entirely consistent with the goal of the temporary freeze “to “preserve the current landscape of authorized operations in the 3.7-4.2 GHz band.” In addition, Anuvu notes that while downlink operations at 3700-4200 MHz, consistent with the current license under this call sign (IBFS File No. SES-RWL-20201013-01112), are currently still permitted at this location until at least December 2023, it is reducing the scope of the spectrum requested in this modification application to the 4000-4200 MHz portion of the band. The active use of this facility is currently within this upper band on the Galaxy-28 satellite at 89 West Longitude and is expected to remain on this transponder for the long term, so no access to frequencies below 4000 MHz is required.

Accordingly, for all of the foregoing reasons, there is good cause in this instance to waive the temporary C-band Freeze prohibiting downlink modification applications as such a waiver will affirmatively promote the public interest and will have no negative impact on the future sharing environment in the 3.7 to 4.2 GHz frequency band.

⁶ National Weather Service website, National Weather Service New York, NY Tour AWIPS Page, *available at* https://www.weather.gov/okx/Tour_AWIPS.