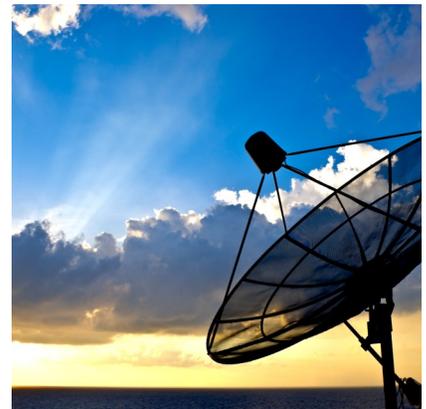


FCC Warns Inactive/Non-Responsive C-Band Earth Stations: File or Be Terminated

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As readers of CommLawBlog [know](#), the Federal Communications Commission (“FCC” or the “Commission”) has reallocated the lower portion of the C-Band used for satellite communications and auctioned that portion of the spectrum for wireless services. In connection with that auction, operators of C-Band Fixed Satellite Service (“FSS”) earth stations will have to modify their operations out of (“transition”) the lower portion of the C-Band. The FCC structured the nationwide transition plan to include the involvement of the FSS Satellite operators as well as RSM US LLP (“RSM”), the designated C-Band Relocation Coordinator. Recently, the FCC’s International Bureau published a [Public Notice](#) regarding (1) operators of incumbent FSS C-Band earth station antennas that have been reported as no longer operational and (2) incumbent FSS C-Band earth station operators that have not responded to communications from RSM and/or incumbent C-Band satellite operators. That Public Notice requires C-Band Earth Station operators who are listed in attachments to the Notice to submit to the FCC by April 19, 2021, a statement affirming the continued operation of the identified earth station antennas and their intent to participate in the C-Band transition. Failure by those identified operators to make that submission will result in automatic termination of their earth station authorizations and removal from the list of “incumbent” earth stations entitled to protection from interference, and may deny the operator assistance and reimbursement in connection with the transition.

Under the Commission’s prior orders, RSM is responsible for coordinating with the five incumbent C-Band satellite operators – Eutelsat, Intelsat, SES, StarOne, and Telesat – to ensure that all incumbent earth stations are accounted for in the transition. The satellite operators have engaged in outreach to the earth stations known to be receiving service from these satellite operators. The overwhelming majority of incumbent earth stations have been “claimed” by the satellite operator from which they receive service and will be transitioned to the upper 200 megahertz of the band. But a limited number of incumbent earth stations remain unassociated with any of the satellite operators. In these cases, RSM, as the C-Band Relocation Coordinator, has conducted outreach and research to determine whether the earth station is still active and, if so, the satellite(s) from which the earth station receives its service so that RSM may assign, if possible, that earth station to a satellite operator for purposes of assisting in the transition.



Recently, RSM submitted a filing to the FCC that includes two lists of incumbent earth stations. [One list](#) identifies various individual earth station antennas that it reports, based on communications with earth station operators by RSM or satellite operators, or both, are no longer operational at the site address and GPS coordinates provided in the FCC’s latest incumbent earth station list. The inactive incumbent earth stations RSM identifies excludes any earth stations for which a lump sum election was made. In the [other list](#), RSM identifies earth station operators (and associated antennas) that it reports as unresponsive to multiple and varied C-Band transition outreach efforts by RSM, the satellite operators, or both, whether made via email, phone, and, in some cases, certified mail.

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Reported inactive earth station antennas will be presumed non-operational and terminated.

The FCC has announced that it will presume that earth station antennas reported by RSM as inactive to be no longer operational. Section 25.161(c) of the Commission’s rules provides that an earth station authorization is automatically terminated if the station is not operational for more than 90 days. Section 25.115(b)(8) of the Commission’s rules also requires earth station operators to take the steps necessary to remove non-operational antennas from the active records in the International Bureau Filing System (“IBFS”).

Thus, the FCC has directed earth station operators with incumbent earth station antennas reported to Commission staff as inactive to make either one of two filings no later than April 19, 2021: (1) file to remove those antennas from IBFS as no longer operational; or (2) file in Electronic Comment Filing System (“ECFS”) IB Docket No. 20-205 to assert that those antennas are still operational.

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Earth station operators that do not respond by April 19, 2021 to affirm the continued operation of their identified earth station antennas will be deemed to have had the authorizations for those antennas automatically terminated by rule. The IBFS records for those antennas will then be shown to have a terminated status. Such terminated earth stations will also be removed from the incumbent earth station list and will not be entitled to protection from interference from the network deployments of new wireless licenses or be eligible for reimbursement of any transition costs, including the cost of any filters, that those earth stations may decide to incur. [Antennas that were included in a lump sum election can still collect the lump sum since such antennas include those that the earth station owner intends to discontinue opera-

tion.]

Unresponsive operators (and associated antennas) must confirm or be deemed terminated.

Based on their alleged failure to respond to multiple contact attempts by RSM and the incumbent satellite operators, the FCC will presume that the incumbent earth station antennas identified in Attachment B have ceased operations. To confirm whether or not these unresponsive station operators have discontinued the operation of these earth station antennas, the FCC requires those operators to submit a notification, no later than April 19, 2021, affirming that their facilities remain operational and that they intend to participate in the C-Band transition. Operators should submit this notification to the Bureau in ECFS IB Docket No. 20-205. In its response, an earth station operator who affirms that the identified earth station antennas remain operational should also identify the satellite from which each antenna is receiving service. Commission staff will forward all affirmations of continued operation to the RSM and/or relevant satellite operator(s), who will contact the earth station operators directly to initiate the transition.

Earth station operators that do not respond by April 19, 2021 to affirm the continued operation of the identified earth station antennas will be deemed to have had the authorizations for those antennas automatically terminated by rule. Such terminated earth stations will also be removed from the incumbent earth station list and will not be entitled to interference protection from interference from the network deployments of new wireless licenses or be eligible for reimbursement of any transition costs, including the cost of any filters, that those earth stations may decide to incur.

Earth station operators who have not communicated with a satellite operator or RSM about the transition, or who may have had their earth station reported as inactive, should closely check the FCC’s Attachment lists linked above, and take appropriate action if their earth stations are improperly listed. If you have questions or need assistance in responding to the FCC, please contact us.

Thomas Urban Elected Member of Fletcher, Heald & Hildreth

The Members of Fletcher, Heald & Hildreth, PLC are proud to announce that they have elected Thomas F. Urban II as a Member of the Firm effective immediately. Joining the firm in January 2020, Mr. Urban had an impactful first year with his active litigation practice, especially in response to COVID-19. Not only has Mr. Urban continued to have a substantial hearing and deposition schedule (remotely); he has even written on the effect of the COVID-19 pandemic on contract law and is in the process of authoring a piece on the proposed adoption of class actions in Virginia.

“It is an honor to join the membership at FHH,” said Mr. Urban. “I am looking forward to bolstering the firm’s already outstanding litigation practice for many years to come.”



Mr. Urban is an experienced class action litigator, as well as a veteran trial lawyer in both federal and Virginia state courts, with particular knowledge in serving as local counsel in the U.S. District Court for the Eastern District of Virginia. Thomas F. Urban II began his career as an attorney for the large national law firms of Williams & Connolly and King & Spalding, defending international corporations such as General Electric Aircraft Engines, Novartis Pharmaceuticals, and USAA Insurance Company. Since he began practicing law in 1991, Mr. Urban has engaged in high-stakes litigation across the United States.

Mr. Urban’s practice has included a wide variety of civil litigation, previously including matters involving class actions, RICO cases, complex civil fraud lawsuits, trade secret litigation, and computer crime proceedings, as well as complex commercial and product liability cases. In the past, Mr. Urban has served as national coordinating counsel for a drug company in products liability litigation, successfully defending a corporate client in a jury trial in Galveston, Texas, and has prevailed in several jury trials in D.C. and Virginia, as well as a complex appeal before the Supreme Court of Virginia. His other representations have included issues involving antitrust, qui tam, sex and race discrimination, Americans with Disabilities, attorney ethics, and First Amendment disputes.

In addition, Mr. Urban has maintained a substantial pro bono practice, representing children with autism in Northern Virginia, pursuing a prisoners’ rights case before the D.C. Court of Appeals, filing an opposition to a petition for certiorari in a highly publicized case for the Southern Poverty Law Center in the U.S. Supreme Court, and representing TransAfrica protestors in the U.S. District Court for the District of Columbia. He has also served as an attorney in the Special Litigation section of the U.S. Department of Justice’s Civil Rights Division.

He holds a J.D. from Georgetown University where he graduated *magna cum laude*, as well as a B.S. in Aerospace Engineering from Texas A&M University.

We welcome Tom to the membership.

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New Webinar Available: Writing Contracts for a Post-Covid World

On March 23, Fletcher Heald attorney Thomas Urban presented a webinar on how COVID-19 has affected contract litigation and how companies should be prepared for future public health emergencies. During the presentation, Tom broke down the differences in contract doctrines and provided viewers with specific case law that could be applicable in potential lawsuits. The webinar ended with an in-depth look at where contract law could be moving post-COVID as well as a discussion on the many other challenges businesses could face. If you have not updated your contracts or are interested in learning more about this area of the law, this is an exceptional educational opportunity.

If you would like a copy of the PowerPoint, please reach out to potischman@fhhlaw.com. Otherwise, you can watch the webinar on our [YouTube](#) channel. Be sure to subscribe to receive all the latest legal webinar content and feel free to ask any questions you may have.

Upcoming FCC Broadcast Deadlines for April – June

Broadcast Deadlines:

April 10, 2021

Issues/Programs Lists – For all commercial and noncommercial radio, television, and Class A television stations, listings of each station's most significant treatment of community issues during the first quarter of 2021 must be placed in the station's online public inspection file. The lists should include brief narratives describing the issues covered and the programs which provided the coverage, with information concerning the time, date, duration, and title of each program with a brief description of the program.

Class A Television Stations Continuing Eligibility Documentation – The Commission requires that all Class A Television Stations maintain in their OPIF documentation sufficient to demonstrate that the station is continuing to meet the eligibility requirements of broadcasting at least 18 hours per day and broadcasting an average of at least three hours per week of locally produced programming. While the Commission has given no guidance as to what this documentation must include or when it must be added to the public file, we believe that a quarterly certification which states that the station continues to broadcast at least 18 hours per day, that it broadcasts on average at least three hours per week of locally produced programming, and lists the titles of such locally produced programs should be sufficient.