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FCC Space Modernization Series (Part 4): FCC Overhauls Earth Station Licensing with New Nationwide Non-Site Framework

The Federal Communications Commission's overhaul of its rules governing space necessarily extends beyond space stations to their terrestrial cousins, *i.e.*, earth stations. Earth stations are an essential part of the space ecosystem, connecting satellites to terrestrial networks, users, and infrastructure. This GT Alert — the fourth in our series examining the Commission's *Space Modernization for the 21st Century* Report and Order — focuses on the reforms to earth station licensing and deployment, including efforts to reduce repetitive site-by-site licensing and allow operators to bring compliant facilities into operation more quickly. For additional analysis of the FCC's *Space Modernization for the 21st Century Report and Order*, see Part 1, Part 2, and Part 3 of this series.

The new framework combines certification-based applications, nationwide non-site licensing, streamlined site registration, and greater flexibility to commence operations while an application remains pending. Together, these reforms are intended to make earth station licensing more scalable as operators deploy increasingly large numbers of gateways and other fixed facilities.

From Site-by-Site Licensing to a Two-Step Framework

The centerpiece of the Commission's earth station reforms is the new Nationwide, Non-Site License for "Immovable earth stations," defined as an earth station, other than Very Small Aperture Terminals

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(VSATs), User Terminals,[1] Earth Stations in Motion, Supplemental Coverage from Space Devices, or Mobile Earth Terminals, that is "registered pursuant to a Nationwide, Non-Site license or licensed as an individual location authorization that is located at a fixed location."

Under the new framework, an Immovable earth station operator will no longer be required to obtain a separate, full license for each technically similar facility. Instead, the licensing process will occur in two stages:

- First, the operator will obtain a Nationwide, Non-Site License establishing the common technical and operational parameters under which its earth stations may operate;
- Second, as facilities are deployed, the operator will register individual sites under that license.

The Nationwide, Non-Site License establishes a common operating envelope,[2] rather than authorizing operations at any particular location. The Commission expects that envelope to include parameters such as frequency bands, authorized points of communication, power levels, out-of-band emissions, off-axis limits, and antenna types. Site registrations will then supply location-specific information, such as the site coordinates, number of antennas, antenna height where relevant, and any demonstrations required by band-specific rules.[3]

The Commission characterizes the Nationwide, Non-Site License as an interim, "default registration rule" applicable to all spectrum bands, including federal and commercially shared bands. In future proceedings, the Commission anticipates departing from this default registration rule as it looks for opportunities to license earth stations more efficiently across specific frequency bands over time.

The Commission distinguishes between a Nationwide, Non-Site License and a blanket license, explaining that the latter "may be used for all types of earth stations that do not meet the definition of an Immovable earth station." While a Nationwide, Non-Site license confers no operational authority until a site is registered pursuant to the license, a blanket license provides operational authority for the earth station types covered by the license once the license is issued. The Commission also declined to eliminate the existing definition of "Fixed Earth Station" in favor of the new "Immovable earth station" category, explaining that the two terms serve different purposes. As the Commission noted, VSATs, user terminals, and other blanket-licensed earth stations that operate in the fixed-satellite service but do not qualify as Immovable earth stations may still be considered Fixed Earth Stations because they operate in the fixed-satellite service and may be intended to operate at a fixed location.

Importantly, the new National, Non-Site licensing framework does not eliminate coordination requirements. Sites registered under a Nationwide, Non-Site License must continue to satisfy all applicable frequency- and location-specific protection requirements. In shared bands, a registrant generally may not begin protected operations until it has completed required coordination and provided the information necessary to demonstrate compliance with the applicable rules. The Commission

[1] In the R&O, the FCC declines to formally define "User Terminal," stating instead that the term refers to an "earth station, operating in the fixed services, that does not meet the definition of either an Immovable earth station or an ESIM, that is intended for use by customers and licensed via a blanket license."

[2] Sites registered pursuant to a Nationwide, Non-Site license will only be permitted to operate in accordance within the envelope of the associated Nationwide, Non-Site license. If an operator wishes to site an earth station that falls outside that envelope, it must either modify the Nationwide, Non-Site license to change the parameters for *all* registered sites or file for a site-specific Immovable earth station license.

[3] Sites that require a rule waiver, other than of U.S. Table of Frequency Allocations, will not be permitted to register pursuant to a Nationwide, Non-Site license.

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emphasized that the new framework is intended to streamline licensing — not to provide a means of circumventing coordination or interference-protection requirements.

Registration Establishes Priority and Replaces a Traditional Pleading Cycle

The Commission also streamlined the process by which individual sites receive protection under a Nationwide, Non-Site License. Site registrations will not undergo the conventional application public notice and pleading cycle applicable to license applications. Instead, the Commission's Space Bureau will maintain a record of registrations and publish, as part of its weekly public notices, a list of sites registered during the preceding week, including the site location and the file number of the associated Nationwide, Non-Site License. This approach gives incumbent and potentially affected operators visibility into new deployments without subjecting each individual site to a separate licensing proceeding.

The framework also establishes a new first-in-time priority regime, with an important deployment requirement. Priority attaches when a site is registered, but that priority is conditioned on the registrant commencing operations within one year. The Commission rejected a pure first-to-file system to prevent operators from warehousing priority rights without actually deploying facilities. The new framework combines the certainty of registration-based priority with a buildout requirement.

The rules also address situations in which a later registrant seeks to deploy at a location before an earlier registrant has begun operating. A later registrant is not categorically barred from building and operating merely because another party registered the site first. If the earlier registrant completes the required coordination and commences operations within the one-year period, however, the later registrant must protect and coordinate with the earlier facility. During that coordination process, the later registrant may continue operating on a non-interference, unprotected basis. The Commission explained that this hybrid approach is intended to prevent priority rights from becoming a mechanism for blocking deployment while still giving operators that actually build and operate facilities meaningful protection.

Less Reliance on STA

The Commission's reforms also address a longstanding source of delay for earth station operators: the need to obtain special temporary authority (STA) while a permanent application is pending.

Under the new rules, certain earth station applicants may begin operating on a non-interference, unprotected basis once their application is placed on public notice, rather than waiting for Commission action. This opportunity is available where the applicant does not require a waiver, will operate in a non-federally shared band, and has a current, previously approved Form 312—Main Form on file. The applicant must also have completed any applicable coordination before commencing operations. Applicants that do not have a current approved Form 312, or that seek a waiver, generally cannot take advantage of this early-operating mechanism and must await Commission authorization.

The reform effectively creates an alternative to the STA process for a class of routine earth station applications. Rather than requiring an operator to seek STA to bridge the period between filing and grant, the rules allow qualifying applicants to begin compliant operations as soon as the application enters the public notice stage.

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Author

This GT Alert was prepared by:

- Kathryne C. Dickerson | +1 202.533.2324 | Kate.Dickerson@gtlaw.com

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