

ALERT

FCC Initiates Rulemaking to Streamline Satellite and Earth Station Application Process

January 3, 2023

On December 21, 2022, the Commission voted to approve a Notice of Proposed Rulemaking (NPRM) to streamline the satellite and earth station application process under its Part 25 rules, stating that “[a]s the Commission experiences increasing satellite licensing activity we must keep pace with demand and reassess our processes to identify opportunities for streamlining.” *NPRM*, ¶ 12. This NPRM is the latest in a series of FCC efforts to support the growing U.S. space and satellite sector. This rulemaking could pave the way for improved FCC processing of innovative applications, such as those involving inter-satellite communications, in-space manufacturing or servicing, satellite-to-smartphone communications, and more.

In this NPRM, the Commission seeks comment broadly on typical review timeframes, as well as any rule changes the Commission could adopt to improve application processing. It further seeks comment on the following specific proposals intended to facilitate the acceptance for filing of satellite and earth station applications, and thus their placement on public notice for comment.

Applications Not Conforming with International Frequency

Allocations: The Commission proposes to allow consideration of satellite applications that request waiver of the Table of Frequency Allocations to operate in a frequency band without an international allocation. Currently, such applications are barred from consideration under Section 25.112(a)(3) and (b) of the Commission’s rules. If adopted, this new rule would enable such applications to be accepted for filing for public notice, and for the FCC to consider the merits of the waiver request.

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The Commission further seeks comment on “whether to provide guidance, in a rule or otherwise, on the conditions under which a waiver of the International Table of Frequency Allocations is more likely.” *NPRM*, ¶ 14. The *NPRM* contemplates a number of approaches to accomplish this, such as specifying that waiver applicants should provide a sufficient electromagnetic compatibility analysis, a certification of willingness to operate on an unprotected and non-harmful interference basis, or an indication by the Commission that waiver is more likely if there are ongoing, favorable activities in the relevant ITU study group in support of a potential future allocation at a World Radiocommunication Conference.

Multiple Licensed but Unbuilt NGSO Systems in the Same Frequency Band: The Commission seeks comment on amending or eliminating altogether the current limit of one unbuilt non-geostationary satellite orbit (NGSO) system per licensee in a given frequency band under Section 25.159(b). The Commission observes that this rule was adopted in the context of processing rounds for NGSO applications, and asks whether the rules should be revised so that it would not apply to NGSO applications outside the processing round context, as well as any other comments on updates to the Commission’s unbuilt NGSO systems rules.

Incomplete or Inaccurate Applications: The Commission seeks comment on ways to reduce inconsistencies or omissions in applications. The *NPRM* specifically asks whether it would “speed application review and ultimately encourage better-prepared applications” if it were to dismiss applications under Section 25.112(a) (1) for containing omissions or internal inconsistencies, or whether it should assist applicants in correcting their applications for placement on public notice. *NPRM*, ¶ 16. It further asks whether incorporating additional completeness and compliance checks into the application process or utilizing certifications in place of certain narrative information would be prudent.

Application Processing Timeframes: The Commission seeks comment on whether to codify or otherwise identify expected processing timeframes for “straightforward” and uncontested applications and for more complex applications. Alternatively, the Commission asks whether a more flexible approach to processing timeframes would allow it to take into consideration other factors such as anticipated launch dates, whether a request is an extension of a previously granted request, and other factors. It further seeks comment generally on the utility of “shot clocks” for action on certain satellite or earth station applications.

With respect to applications to add a satellite point of communication to existing earth station licenses, the Commission seeks comment on whether to automatically deem these applications granted 60 days after filing absent Commission action if the satellite is U.S. licensed or has been granted market access.

The Commission also asks whether it should establish deadlines for determining whether an application is acceptable for filing and dismiss applications that do not have a favorable determination by that deadline. If so, it asks what deadline would be reasonable and whether the deadline should vary depending on the type of application.

Other Process Reforms: The Commission invites comment generally on other changes to its application requirements or review practices. It asks, for example, whether it can streamline inter-Bureau review of applications involving shared spectrum bands and whether there are opportunities to remove duplicative

processing requirements (e.g., coordination demonstrations) across satellite and earth station license applications.

Comments are due 45 days after publication in the Federal Register, and reply comments are due 75 days after publication in the Federal Register. For more information about this NPRM, please contact any of the authors listed on this alert.