

ALERT

FCC to Examine Spectrum Sharing Rules for NGSO FSS Systems

November 30, 2021

On November 23, 2021, the Federal Communications Commission (FCC or Commission) issued a Draft *Order and Notice of Proposed Rulemaking (Order and NPRM)* to address the agency's rules for sharing spectrum among non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) systems. The Commission will consider the item at its December 14, 2021 Open Meeting. If adopted, comments on the *NPRM* would be due 60 days after the date of publication in the Federal Register, and reply comments would be due 30 days thereafter.

The *Order* and *NPRM* arrive as the satellite industry continues to deploy a wave of various new low-Earth orbit satellite systems, including those designed to provide lower latency broadband services. The FCC has licensed already several such systems through processing rounds initiated in 2016/2017 and 2020 for Ku/Ka-band spectrum and in 2016 for V-band spectrum, and it recently received additional applications for V-band systems in a processing round that closed on November 4th.

Through this proceeding, the Commission intends to facilitate the deployment of both existing and future NGSO FSS systems by providing certainty around spectrum sharing obligations.

If adopted, the *NPRM* would seek comment on:

- **Limiting the Default Spectrum-Splitting Procedure to Systems Authorized in the Same Processing Round.** The FCC proposes to require an NGSO FSS licensee or market access recipient, prior to commencing operations, to "either certify that it has completed a coordination agreement with any operational

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NGSO FSS system licensed or granted U.S. market access in an earlier processing round, or demonstrate that it will not cause harmful interference to any such system with which coordination has not been completed.” (Appendix A, Proposed Section 25.261(d)). This would codify the FCC’s existing practice of requiring systems authorized through later processing rounds to protect those authorized in earlier processing rounds. The default spectrum-splitting procedure provided in Section 25.261(c) of the Commission’s rules would therefore apply only to NGSO FSS systems authorized as part of the same processing round.

- **Level of Protection for Earlier-Round Systems.** The Commission supports quantifying the level of protection required for earlier-round systems and seeks comment on appropriate criteria to adopt. It asks, for example, whether to adopt an interference-to-noise (I/N) limit, criteria based upon the percentage of degraded throughput experienced by the NGSO FSS system, or any alternative criteria.
- **Sharing Beam-Pointing Information.** The agency seeks comment on whether to require the sharing of certain types of information, such as beam-pointing information, to facilitate spectrum sharing among NGSO FSS systems. It also seeks comment on concerns around the sharing of such information and ways to address those concerns.
- **Sunsetting of Protection.** The FCC asks whether it should apply a time limit to the protection of earlier-round NGSO FSS systems from later-round systems and, if so, the appropriate period of time. It asks whether doing so would encourage coordination among operators authorized in different processing rounds and facilitate competition, or whether it would disrupt operations of NGSO FSS systems under deployment.
- **Application of Rule Changes.** The Commission asks whether it should apply any rule changes adopted as part of this proceeding only to new license applications, including license modification applications, application amendments, and market access petitions, filed after the new rules go into effect. It also seeks comment on the impact of applying or not applying new rules to existing grantees.
- **Digital Equity and Inclusion.** Finally, the agency invites comment on any equity-related considerations and benefits, if any, that may be associated with the proposals and issues addressed in the *NPRM*.

The Order would grant, in part, a Petition for Rulemaking filed in April 2020 requesting the Commission initiate a proceeding to revise or clarify the agency’s rules concerning spectrum sharing obligations among NGSO FSS systems. While seeking comment on several proposals made in the petition, the FCC would defer proposals related to spectrum-selection priority among NGSO FSS systems authorized in the same processing round. Should you have any questions, please contact one of the authors listed on this alert.