

## **§ 25.152**

Any comments or petitions must be delivered to the Commission by that date in accordance with § 25.154.

(e)(1) Applicants seeking authority to operate a temporary fixed earth station pursuant to § 25.277 may consider their applications “provisionally granted,” and may initiate operations upon the placement of the complete FCC Form 312 application on public notice, provided that

(i) The temporary fixed earth station will operate only in the conventional Ku-band (14.0–14.5 GHz and 11.7–12.2 GHz bands);

(ii) The temporary fixed earth station’s operations will be consistent with all routine-licensing requirements for the conventional Ku-band; and

(iii) The temporary fixed earth station’s operations will be limited to satellites on the Permitted Space Station List.

(2) Applications for authority granted pursuant to paragraph (e)(1) of this section shall be placed on public notice pursuant to paragraph (a)(1) of this section. If no comments or petitions are filed within 30 days of the public notice date, the authority granted will be considered a regular temporary fixed earth station authorization as of 30 days after the public notice date. If a comment or petition is filed within 30 days of the public notice date, the applicant must suspend operations immediately pending resolution of the issues raised in that comment or petition.

[56 FR 24016, May 28, 1991, as amended at 58 FR 68061, Dec. 23, 1993; 70 FR 32254, June 2, 2005]

## **§ 25.152 Dismissal and return of applications.**

(a) Any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to final Commission action.

(b) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice unless the application is mutually exclusive pursuant to § 25.155, in which case it will be dismissed with prejudice.

## **47 CFR Ch. I (10–1–12 Edition)**

### **§ 25.153 Repetitious applications.**

(a) Where an application has been denied or dismissed with prejudice, the Commission will not consider a like application involving service of the same kind to the same area by the same applicant, or by its successor or assignee, or on behalf of or for the benefit of any of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission’s action. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission denying a particular application, another application for the same class of station and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, will not be considered until the final disposition of the appeal.

### **§ 25.154 Opposition to applications and other pleadings.**

(a) Petitions to deny, petitions for other forms of relief, and other objections or comments must:

(1) Identify the application or applications (including applicant’s name, station location, Commission file numbers, and radio service involved) with which it is concerned;

(2) Be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of the application or major amendment thereto (unless the Commission otherwise extends the filing deadline);

(3) Filed in accordance with the pleading limitations, periods and other applicable provisions of §§ 1.41 through 1.52 of this chapter, except that such petitions must be filed electronically through the International Bureau Filing System (IBFS) in accordance with the applicable provisions of part 1, subpart Y of this chapter;

(4) Contain specific allegations of fact (except for those of which official notice may be taken) to support the specific relief requested, which shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to

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demonstrate that the petitioner (or respondent) is a party of interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest; and

(5) Contain a certificate of service showing that it has been mailed to the applicant no later than the date the pleading is filed with the Commission.

(b) The Commission will classify as informal objections:

(1) Any pleading not filed in accordance with paragraph (a) of this section;

(2) Any pleading to which the thirty (30) day public notice period of § 25.151 does not apply; or

(3) Any objections to the grant of an application when the objections do not conform to either paragraph (a) of this section or to other Commission rules and requirements.

(c) Except for opposition to petitions to deny an application filed pursuant to § 25.220, oppositions to petitions to deny an application or responses to comments and informal objections regarding an application may be filed within 10 days after the petition, comment, or objection is filed and must be in accordance with other applicable provisions of §§ 1.41 through 1.52 of this chapter, except that such oppositions must be filed electronically through the International Bureau Filing System (IBFS) in accordance with the applicable provisions of part 1, subpart Y of this chapter.

(d) Except for opposition to petitions to deny an application filed pursuant to § 25.220, reply comments by the party that filed the original petition may be filed with respect to pleadings filed pursuant to paragraph (c) of this section within 5 days after the time for filing oppositions has expired unless the Commission otherwise extends the filing deadline and must be in accordance with other applicable provisions of §§ 1.41 through 1.52 of this chapter, except that such reply comments must be filed electronically through the International Bureau Filing System (IBFS) in accordance with the applicable provisions of part 1, subpart Y of this chapter.

(e) If a petition to deny an application filed pursuant to § 25.220 is filed, the applicant must file a statement

with the Commission explaining whether the applicant has resolved all outstanding issues raised by the petitioner, within 30 days of the date the petition for deny is filed. This statement must be in accordance with the provisions of §§ 1.41 through 1.52 of this chapter applicable to oppositions to petitions to deny, except that such reply comments must be filed electronically through the International Bureau Filing System (IBFS) in accordance with the applicable provisions of part 1, subpart Y of this chapter.

[56 FR 24016, May 28, 1991, as amended at 69 FR 47795, Aug. 6, 2004; 70 FR 32254, June 2, 2005]

### § 25.155 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more other applications.

(b) An application for an NGSO-like space station license, within the meaning of § 25.157, will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with another NGSO-like space station application; and

(2) The application is received by the Commission in a condition acceptable for filing by the “cut-off” date specified in a public notice.

(c) An application for a GSO-like space station license, within the meaning of § 25.158, will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with another GSO-like space station application; and

(2) The application is received by the Commission in a condition acceptable for filing at the same millisecond as another GSO-like space station application with which it is mutually exclusive.

[68 FR 51505, Aug. 27, 2003]