

concurrently with the cancelled license, unless the Commission determines that such a redistribution would not result in a sufficient number of licensees remaining to make reasonably efficient use of the frequency band.

(2) In the event that the redistribution of bandwidth set forth in paragraph (g)(1) of this section would not result in a sufficient number of licensees remaining to make reasonably efficient use of the frequency band, the Commission will issue a public notice initiating a processing round, as set forth in paragraph (c) of this section, to invite parties to apply for an NGSO-like satellite system license to operate in a portion of the bandwidth made available as a result of the cancellation of the initial applicant's license. Parties already holding licenses for NGSO-like satellite operation in that frequency band will not be permitted to participate in that processing round.

(3) There is a presumption that three satellite licensees in a frequency band are sufficient to make reasonably efficient use of the frequency band.

(h) Services offered pursuant to an NGSO-like license in a frequency band granted before the Commission has adopted frequency-band-specific service rules for that band will be subject to the default service rules in § 25.217.

[68 FR 51505, Aug. 27, 2003, as amended at 81 FR 55334, Aug. 18, 2016]

§ 25.158 Consideration of applications for GSO-like satellite operation.

(a)(1) This section specifies the procedures for considering license applications for “GSO-like” satellite operation, except as provided in paragraph (a)(2) of this section. For purposes of this section, the term “GSO-like satellite operation” means operation of a GSO satellite to communicate with earth stations with directional antennas, including operation of GSO satellites to provide MSS feeder links.

(2) The procedures prescribed in this section do not apply to an application for authority to launch and operate a replacement space station that meets the relevant criteria in § 25.165(e)(1) and (e)(2) and that will be launched before the space station to be replaced is retired from service or within a reasonable time after loss of a space station

during launch or due to premature failure in orbit.

(b) Except as provided in paragraph (a)(2) of this section, license applications for GSO-like satellite operation, including first-step filings pursuant to § 25.110(b)(3)(i) or (ii), will be placed in a queue and considered in the order that they are filed, pursuant to the following procedure:

(1) The application will be reviewed to determine whether it is acceptable for filing within the meaning of § 25.112. If not, the application will be returned to the applicant.

(2) If the application is acceptable for filing under § 25.112, the application will be placed on public notice pursuant to § 25.151.

(i) For applications filed pursuant to § 25.110(b)(3)(i) or (b)(3)(ii), the public notice will announce that the Coordination Request or Appendix 30B filing has been submitted to the ITU. When further information is filed pursuant to § 25.110(b)(3)(iii), it will be reviewed to determine whether it is substantially complete within the meaning of § 25.112. If so, a second public notice will be issued pursuant to § 25.151 to give interested parties an opportunity to file pleadings pursuant to § 25.154.

(ii) For any other license application for GSO-like satellite operation, the public notice will announce that the application has been found acceptable for filing and will give interested parties an opportunity to file pleadings pursuant to § 25.154.

(3) The application will be granted only if it meets each of the following criteria:

(i) After review of the application and any pleadings filed in response to that application, the Commission finds that the application meets the standards of § 25.156(a); and

(ii) The proposed satellite will not cause harmful interference to any previously licensed operations.

(c) A license applicant for GSO-like satellite operation must not transfer, assign, or otherwise permit any other entity to assume its place in any queue.

(d) In the event that two or more applications for GSO-like satellite operation are mutually exclusive within

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the meaning of § 25.155(c), the Commission will consider those applications pursuant to the following procedure:

(1) Each application will be reviewed to determine whether it is acceptable for filing within the meaning of § 25.112. Any application not found acceptable for filing will be returned to the applicant.

(2) All applications that are acceptable for filing will be placed on public notice pursuant to § 25.151, and interested parties will be given an opportunity to file pleadings pursuant to § 25.154.

(3) Each application will be granted if it meets the criteria of paragraph (b)(3) of this section, and otherwise will be denied.

(4) In the event that two or more applications are granted pursuant to paragraph (d)(3) of this section, the available bandwidth at the orbital location or locations in question will be divided equally among those licensees.

(5) Licensees whose licenses are granted pursuant to paragraph (d)(4) of this section will be allowed to select the particular band segment it wishes to use no earlier than 60 days before they plan to launch the first satellite in its system, and no later than 30 days before that date, by submitting a letter to the Secretary of the Commission. The licensee shall serve copies of this letter to the other participants in the processing round pursuant to § 1.47 of this chapter.

(6) Licensees whose licenses are granted pursuant to paragraph (d)(4) of this section shall request contiguous bandwidth in both the uplink and downlink band. Each licensee's bandwidth selection shall not preclude other licensees from selecting contiguous bandwidth.

(7) If two or more licensees whose licenses are granted pursuant to paragraph (d)(4) of this section request the same band segment, all licensees other than the first one to request that particular band segment will be required to make another selection.

(e) Services offered pursuant to a GSO-like license in a frequency band granted before the Commission has adopted frequency-band-specific service

rules for that band will be subject to the default service rules in § 25.217.

[68 FR 51506, Aug. 27, 2003, as amended at 81 FR 55334, Aug. 18, 2016]

§ 25.159 Limits on pending applications and unbuilt satellite systems.

(a) [Reserved]

(b) Applicants with an application for one NGSO-like satellite system license on file with the Commission in a particular frequency band, or one licensed-but-unbuilt NGSO-like satellite system in a particular frequency band, will not be permitted to apply for another NGSO-like satellite system license in that frequency band.

(c) If an applicant has an attributable interest in one or more other entities seeking one or more space station licenses, the pending applications and licensed-but-unbuilt satellite systems filed by those other entities will be counted as filed by the applicant for purposes of the limits on the number of pending space station applications and licensed-but-unbuilt satellite systems in this paragraph. For purposes of this paragraph, an applicant has an "attributable interest" in another entity if:

(1) It holds equity (including all stockholdings, whether voting or non-voting, common or preferred) and debt interest or interests, in the aggregate, exceed thirty-three (33) percent of the total asset value (defined as the aggregate of all equity plus all debt) of that entity, or

(2) It holds a controlling interest in that entity, or is the subsidiary of a party holding a controlling interest in that entity, within the meaning of 47 CFR 1.2110(b)(2).

(3) For purposes of paragraphs (c)(1) and (c)(2) of this section, ownership interests shall be calculated on a fully diluted basis, *i.e.*, all agreements, such as warrants, stock options, and convertible debentures, will generally be treated as if the rights thereunder already have been fully exercised.

(d) In the event that a licensee misses three or more milestones within any three-year period, the Commission will presume that the licensee obtained one or more of those licenses for speculative purposes. Unless the licensee rebuts this presumption, it will not be