

(e)(4), an urban area shall be an Adjusted Urban Area as defined in section 101(a)(37) of Title 21 of the United States Code; and

(iv) The applicant has successfully completed frequency coordination with the UMFUS licensees within the area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to -77.6 dBm/m²/MHz with respect to existing facilities constructed and in operation by the UMFUS licensee. In coordinating with UMFUS licensees, the applicant shall use the applicable processes contained in § 101.103(d) of this chapter.

(f) If an earth station applicant or licensee in the 24.75–25.25 GHz, 27.5–28.35 GHz, 37.5–40 GHz, 47.2–48.2 GHz and/or 50.4–51.4 GHz bands enters into an agreement with an UMFUS licensee, their operations shall be governed by that agreement, except to the extent that the agreement is inconsistent with the Commission's rules or the Communications Act.

(g) Any earth station authorizations issued pursuant to paragraph (a)(4), (c), (d)(4), or (e)(4) of this section shall be conditioned upon operation being in compliance with the criteria contained in the applicable paragraph.

[81 FR 79937, Nov. 14, 2016, as amended at 83 FR 63, Jan. 2, 2018; 83 FR 34489, July 20, 2018; 84 FR 20819, May 13, 2019; 84 FR 47147, Sept. 9, 2019]

§ 25.137 Requests for U.S. market access through non-U.S.-licensed space stations.

(a) Earth station applicants requesting authority to communicate with a non-U.S.-licensed space station and entities filing a petition for declaratory ruling to access the United States market using a non-U.S.-licensed space station must attach an exhibit with their FCC Form 312 demonstrating that U.S.-licensed satellite systems have effective competitive opportunities to provide analogous services in:

- (1) The country in which the non-U.S. licensed space station is licensed; and
- (2) All countries in which communications with the U.S. earth station will originate or terminate. The applicant bears the burden of showing that there are no practical or legal constraints that limit or prevent access of

the U.S. satellite system in the relevant foreign markets. The exhibit required by this paragraph must also include a statement of why grant of the application is in the public interest. This paragraph shall not apply with respect to requests for authority to operate using a non-U.S. licensed satellite that is licensed by or seeking a license from a country that is a member of the World Trade Organization for services covered under the World Trade Organization Basic Telecommunications Agreement.

(b) Any request pursuant to paragraph (a) of this section must be filed electronically through the International Bureau Filing System and must include an exhibit providing legal and technical information for the non-U.S.-licensed space station of the kind that § 25.114 or § 25.122 or § 25.123 would require in a license application for that space station, including but not limited to, information required to complete Schedule S. An applicant may satisfy this requirement by cross-referencing a pending application containing the requisite information or by citing a prior grant of authority to communicate via the space station in question in the same frequency bands to provide the same type of service.

(c) A non-U.S.-licensed NGSO-like satellite system seeking to serve the United States can be considered contemporaneously with other U.S. NGSO-like satellite systems pursuant to § 25.157 and considered before later-filed applications of other U.S. satellite system operators, and a non-U.S.-licensed GSO-like satellite system seeking to serve the United States can have its request placed in a queue pursuant to § 25.158 and considered before later-filed applications of other U.S. satellite system operators, if the non-U.S.-licensed satellite system:

- (1) Is in orbit and operating;
- (2) Has a license from another administration; or
- (3) Has been submitted for coordination to the International Telecommunication Union.

(d) Earth station applicants requesting authority to communicate with a non-U.S.-licensed space station and entities filing a petition for declaratory

ruling to access the United States market must demonstrate that the non-U.S.-licensed space station has complied with all applicable Commission requirements for non-U.S.-licensed systems to operate in the United States, including but not limited to the following:

- (1) Milestones;
- (2) Reporting requirements;
- (3) Any other applicable service rules;
- (4) The surety bond requirement in § 25.165, for non-U.S.-licensed space stations that are not in orbit and operating.

(5) Recipients of U.S. market access for NGSO-like satellite operation that have one market access request on file with the Commission in a particular frequency band, or one granted market access request for an unbuilt NGSO-like system in a particular frequency band, other than those filed or granted under the procedures in § 25.122 or § 25.123, will not be permitted to request access to the U.S. market through another NGSO-like system in that frequency band. This paragraph (d)(5) shall not apply to recipients of U.S. market access applying under § 25.122 or § 25.123.

(e) An entity requesting access to the United States market through a non-U.S.-licensed space station pursuant to a petition for declaratory ruling may amend its request by submitting an additional petition for declaratory ruling. Such additional petitions will be treated on the same basis as amendments filed by U.S. space station applicants for purposes of determining the order in which the petitions will be considered relative to pending applications and petitions.

(f) A non-U.S.-licensed space station operator that has been granted access to the United States market pursuant to a declaratory ruling may modify its U.S. operations under the procedures set forth in §§ 25.117(d) and (h) and 25.118(e).

(g) A non-U.S.-licensed satellite operator that acquires control of a non-U.S.-licensed space station that has been permitted to serve the United States must notify the Commission within 30 days after consummation of the transaction so that the Commission can afford interested parties an

opportunity to comment on whether the transaction affected any of the considerations we made when we allowed the satellite operator to enter the U.S. market. A non-U.S.-licensed satellite that has been transferred to new owners may continue to provide service in the United States unless and until the Commission determines otherwise. If the transferee or assignee is not licensed by, or seeking a license from, a country that is a member of the World Trade Organization for services covered under the World Trade Organization Basic Telecommunications Agreement, the non-U.S.-licensed satellite operator will be required to make the showing described in paragraph (a) of this section.

[62 FR 64172, Dec. 4, 1997, as amended at 64 FR 61792, Nov. 15, 1999; 65 FR 16327, Mar. 28, 2000; 65 FR 59143, Oct. 4, 2000; 68 FR 51503, Aug. 27, 2003; 68 FR 62249, Nov. 3, 2003; 69 FR 51587, Aug. 20, 2004; 78 FR 8422, Feb. 6, 2013; 81 FR 55331, Aug. 18, 2016; 81 FR 75344, Oct. 31, 2016; 85 FR 43735, July 20, 2020]

§ 25.138 Earth Stations in the 3.7–4.2 GHz band.

(a) Applications for new, modified, or renewed earth station licenses and registrations in the 3.7–4.0 GHz portion of the band in CONUS are no longer accepted.

(b) Applications for new earth station licenses or registrations within CONUS in the 4.0–4.2 GHz portion of the band will not be accepted until the transition is completed and upon announcement by the International Bureau via Public Notice that applications may be filed.

(c) Fixed and temporary fixed earth stations operating in the 3.7–4.0 GHz portion of the band within CONUS will be protected from interference by licensees in the 3.7 GHz Service subject to the deadlines set forth in § 27.1412 of this chapter and are eligible for transition into the 4.0–4.2 GHz band so long as they:

- (1) Were operational as of April 19, 2018 and continue to be operational;
- (2) Were licensed or registered (or had a pending application for license or registration) in the IBFS database on November 7, 2018; and