

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Establishment of Policies and Service Rules) IB Docket No. 01-96
for the Non-Geostationary Satellite Orbit,)
Fixed Satellite Service in the Ku-band)

COMMENTS OF PANAMSAT CORPORATION

PanAmSat Corporation (“PanAmSat”), by its attorneys, hereby comments upon the Commission’s Further Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹

In the NPRM, the Commission reiterated that “all NGSO FSS licensees will be required to demonstrate that they collectively meet a limit on aggregate power flux density.”² It proposed to implement this requirement by adopting a methodology developed by the ITU-R. The Commission sought comment as to when applicants should be required to demonstrate compliance with this methodology, suggesting two alternatives: six months prior to launch of an NGSO FSS system’s first spacecraft, or at the time of critical design review.

For the reasons discussed below, PanAmSat supports the Commission’s proposal to adopt the ITU-R methodology, and suggests that the Commission require NGSO FSS proponents to demonstrate compliance with this methodology by the earlier of: (1) completion of critical design review; and (2) one and one-half years prior to launch of the first satellite. PanAmSat also recommends that all NGSO FSS licenses be conditioned on a showing of compliance with the aggregate interference limits.

¹ FCC 02-123 (Apr. 26, 2002).

² *Id.* ¶ 86.

DISCUSSION

I. The Commission Should Adopt the ITU-R Draft New Recommendation ITU-R S.[DOC. 4/62] as the Method for Determining Aggregate EPFD_{down} for NGSO FSS Systems in the Ku-Band.

PanAmSat supports the Commission's proposal to adopt the ITU-R methodology, as reflected in an ITU Study Group 4A Draft New Recommendation, for evaluating compliance with the aggregate EPFD_{down} limits for NGSO FSS systems. This DNR was developed with the full participation of the U.S. Administration, and both NGSO FSS and GSO FSS industry representatives contributed extensively to its development. The ITU-R methodology strikes a balance between two important goals: (1) assuring GSO FSS operators that their systems will be protected; and (2) minimizing the effort required of NGSO FSS operators to demonstrate compliance.

The following steps would be followed under the DNR:

1. The first step would be to evaluate compliance with the aggregate limits for all NGSO FSS systems meeting single entry validation limits, based on methodologies 1 and 2 DNR, and employing the single entry software developed by the ITU Radiocommunication Bureau based on Recommendation ITU-R S.1503. Methodologies 1 and 2 by their terms ensure that at least three systems can share the same band segment. If all licensed systems could be shown to operate satisfactorily using these straightforward methodologies, then no further analysis would be necessary. This methodology requires no more information from operators than is needed to conduct the single entry analysis.

2. If not all systems could operate within the aggregate limits under methodologies 1 and 2, then the more refined methodology 3 would be used to evaluate NGSO FSS system coordination agreements.

3. The number of authorized systems can decline if, for example, licensees fail to satisfy FCC milestones. Aggregate limit compliance can be reevaluated if, for any reason, there is a reduction in the number of systems.

II. The Commission Should Require a Showing at the Earliest Possible Time That NGSO FSS Systems Meet the Aggregate Limits.

The Commission has indicated that it intends to license all seven proposed NGSO FSS systems, and it is unclear whether these systems can, absent additional constraints, all operate consistent with the aggregate EPFD_{down} limits. It is imperative, therefore, that the Commission adopt the earliest possible deadline for demonstrating compliance with the aggregate EPFD_{down} limits.

If NGSO FSS applicants did not have to demonstrate compliance until design were complete and construction were well underway, the Commission could be placed in an impossible position. If at that stage it were determined that the NGSO FSS systems did not comply with the aggregate limits, the Commission would have to choose between protecting GSO FSS systems against interference and jeopardizing the billions of dollars that the NGSO FSS operators already had invested in their systems. The Commission need not, and should not, paint itself into this corner.

In light of these considerations, PanAmSat prefers the Commission's proposal to require an aggregate limit showing at the time of critical design review to its alternative proposal to require the showing six months prior to launch of an NGSO FSS system's first spacecraft. PanAmSat is concerned, however, that there is no uniform understanding of what constitutes the time of "critical design review," and that the term has different meanings to different satellite companies. To address this issue, PanAmSat recommends that the Commission adopt an outside limit for demonstrating compliance with the aggregate limits of one and one-half years prior to the launch of an NGSO FSS system's first satellite. Given construction times for FSS spacecraft, it is reasonable to require an operator to make an aggregate limit showing within that time frame.

PanAmSat also proposes that the Commission condition all NGSO FSS licenses on compliance with the aggregate limits. Such a condition will make clear to NGSO FSS licensees that there is an additional regulatory requirement they must satisfy before they may operate their systems. Conditioning licenses also may be prudent as a defense against the argument, should changes be needed to bring an NGSO FSS system into compliance with the aggregate limits, that the Commission has improperly modified the license for the system.

CONCLUSION

For the reasons set forth herein, the Commission should adopt the ITU aggregate EPFD_{down} recommendation; should condition NGSO FSS licenses on compliance with the aggregate EPFD_{down} limits; and should require a showing of compliance at the earlier of: (1) the time of critical design review; and (2) one and one-half years prior to launch of the first satellite.

Respectfully submitted,

PANAMSAT CORPORATION

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