

Chief Executive Officer to collect the debt by administrative offset, and an explanation of the rights of the debtor;

(2) An opportunity to inspect and copy the records of the Corporation related to the debt;

(3) An opportunity for a review within the Corporation of the decision of the Corporation related to the debt; and

(4) An opportunity to make a written agreement with the Chief Executive Officer to repay the amount of the debt.

(c) No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years, unless facts material to the Corporation's or the requesting Federal agency's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

(d) The regulations in this subpart do not apply to:

(1) A case in which administrative offset of the type of debt involved is explicitly prohibited by statute; or

(2) Debts owed to the Corporation by Federal agencies.

**§ 2506.51 How will the Corporation request that my debt to the Corporation be collected by offset against some payment that another Federal agency owes me?**

The Chief Executive Officer may request that funds due and payable to you by another Federal agency instead be paid to the Corporation to satisfy a debt you owe to the Corporation. The Corporation will refer debts to the Treasury for centralized administrative offset in accordance with the FCCS and the procedures established by the Treasury. Where centralized offset is not available or appropriate, the Corporation may request offset directly from the Federal agency that is holding funds for you. In requesting administrative offset, the Corporation will certify in writing to the Federal agency that is holding funds for you:

(a) That you owe the debt;

(b) The amount and basis of the debt; and

(c) That the Corporation has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations in this subpart, the applicable administrative offset regulations of the agency holding the funds, and the applicable provisions of the FCCS with respect to providing you with due process.

**§ 2506.52 What procedures will the Corporation use to collect amounts I owe to a Federal agency by offsetting a payment that the Corporation would otherwise make to me?**

(a) Any Federal agency may request that the Corporation administratively offset funds due and payable to you in order to collect a debt you owe to that agency. The Corporation will initiate the requested offset only upon:

(1) Receipt of written certification from the creditor agency stating:

(i) That you owe the debt;

(ii) The amount and basis of the debt;

(iii) That the agency has prescribed regulations for the exercise of administrative offset; and

(iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of the FCCS, including providing you with any required hearing or review; and

(2) A determination by the Chief Executive Officer that offsetting funds payable to you by the Corporation in order to collect a debt owed by you would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such an offset would not otherwise be contrary to law.

(b) *Multiple debts.* In instances where two or more creditor agencies are seeking administrative offsets, or where two or more debts are owed to a single creditor agency, the Corporation may, in its discretion, allocate the amount it owes to you to the creditor agencies in accordance with the best interest of the United States as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

**§ 2506.53 When may the Corporation make an offset in an expedited manner?**

The Corporation may effect an administrative offset against a payment to be made to you before completion of the procedures required by §§ 2506.51 and 2506.52 if failure to take the offset would substantially jeopardize the Corporation's ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. An expedited offset will be followed promptly by the completion of those procedures. Amounts recovered by offset, but later found not to be owed to the United States, will be promptly refunded.

**§ 2506.54 Can a judgment I have obtained against the United States be used to satisfy a debt that I owe to the Corporation?**

Yes. Collection by offset against a judgment obtained by a debtor against

the United States will be accomplished in accordance with 31 U.S.C. 3728 and 31 U.S.C. 3716.

**Subpart F—Administrative Wage Garnishment**

**§ 2506.55 How will the Corporation collect debts through Administrative Wage Garnishment?**

The Corporation will collect debts through Administrative Wage Garnishment in accordance with the Administrative Wage Garnishment regulations issued by the Treasury. The Corporation adopts, for purposes of this subpart, the Treasury's Administrative Wage Garnishment regulations in 31 CFR 285.11. This procedure allows the Corporation to garnish the disposable pay of a debtor without first obtaining a court order.

Dated: March 29, 2003.

**Michelle Guillermin,**

*Chief Financial Officer.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 25**

[ET Docket 98–206; FCC 03–24]

**Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission addresses petitions for reconsideration of its rules for sharing between geostationary satellite orbit service providers and non-geostationary satellite orbit service providers in the Ku-Band frequency range. The Commission amends several rule sections affecting the demonstration non-geostationary satellite orbit service providers must make to establish that they can meet equivalent power flux density limits designed to protect incumbent geostationary satellite orbit service providers.

**DATES:** Effective May 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** J. Mark Young, Attorney Advisor, Satellite Division, International Bureau, telephone (202) 418–0762 or via the Internet at [myoung@fcc.gov](mailto:myoung@fcc.gov). For additional information concerning the information collections contained in this document, contact Judith B.

Herman at (202) 418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Memorandum Opinion and Order* in ET Docket No. 98-206, FCC 03-24, adopted February 3, 2003, and released February 6, 2003. The complete text of this *Third Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898 or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

### Summary of the Third Memorandum Opinion and Order

1. In a December 2000 *Report and Order*, 66 FR 7607 (1/24/2001) the Federal Communications Commission adopted technical sharing rules to allow operation of non-geostationary satellite orbit, fixed satellite service (NGSO FSS) co-frequency with incumbent Ku-Band geostationary satellite orbit (GSO), fixed satellite service providers. Co-frequency operation of the two services is made possible by a set of limits on equivalent power flux density from NGSO FSS systems into GSO antennas. On reconsideration of that *Report and Order*, the Commission amends several sub-parts of its rules regarding demonstration that NGSO FSS systems can meet the power limits specified in Commission rules.

2. Licensees of geostationary satellite orbit fixed satellite service and broadcast satellite service systems may submit up to 10 earth station test points for in the demonstration that NGSO FSS applicants can meet operational equivalent power flux density limits. The same licensees may also submit up to 10 earth station test points for the comparable demonstration that NGSO FSS applicants can meet additional operational equivalent power flux density limits. If they choose to submit earth station test points, geostationary satellite orbit licensees must do so by January 1 of each year.

### Ordering Clauses

4. Pursuant to sections 4(i), 7(a), 301, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 301, 303(c), 303(f), 303(g), and 303(r), this *Third Memorandum Opinion and Order*

*is adopted*, and part 25 of the Commission's rules *is amended*.

5. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Third Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A); and shall also send a copy of this *Third Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 605(b).

### List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

### Rule Changes

■ For the reasons discussed in the pre-*amble*, the Federal Communications Commission amends 47 CFR part 25 as follows:

### PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701-744. Interprets or applies sections 4, 301, 302, 303; 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 2. Section 25.146 is amended by revising paragraphs (a)(1)(iii), (a)(1)(v), (a)(2)(iii), (a)(2)(v), (b)(1)(v), (b)(2), (c), (f) to read as follows:

#### § 25.146 Licensing and operating authorizations provisions for the non-geostationary satellite orbit satellite service (NGSO FSS) in the bands 10.7 GHz to 14.5 GHz.

(a) \* \* \*

(1) \* \* \*

(iii) If a computer program that has been approved by the ITU for determining compliance with the single-entry EPFD<sub>down</sub> validation limits is not yet available, the applicant shall provide a computer program for the single-entry EPFD<sub>down</sub> validation computation, including both the source code and the executable file. This computer program shall be developed in accordance with the specification stipulated in Recommendation ITU-R S.1503 (2000). If the applicant uses the ITU approved software, the applicant

shall indicate the program name and the version used.

\* \* \* \* \*

(v) Provide the result, the cumulative probability distribution function of EPFD, of the execution of the computer program described in paragraph (a)(1)(iii) of this section by using only the input parameters contained in paragraphs (a)(1)(i) and (a)(1)(iv) of this section.

(2) \* \* \*

(iii) If a computer program that has been approved by the ITU for determining compliance with the single-entry EPFD<sub>up</sub> validation limits is not yet available, the applicant shall provide a computer program for the single-entry EPFD<sub>up</sub> validation computation, including both the source code and the executable file. This computer program shall be developed in accordance with the specification stipulated in Recommendation ITU-R S.1503 (2000). If the applicant uses the ITU approved software, the applicant shall indicate the program name and the version used.

\* \* \* \* \*

(v) Provide the result of the execution of the computer program described in paragraph (a)(2)(iii) of this section by using only the input parameters contained in paragraphs (a)(2)(i) and (a)(2)(iv) of this section.

(b) \* \* \*

(1) \* \* \*

(v) Provide the result, the cumulative probability distribution function of EPFD, of the execution of the verification computer program described in paragraph (b)(1)(iii) of this section by using only the input parameters contained in paragraphs (b)(1)(i) and (b)(1)(iv) of this section for each of the submitted test points provided by the Commission. These test points are based on information from U.S.-licensed geostationary satellite orbit fixed-satellite service and broadcast satellite service operators in the bands 10.7 GHz to 14.5 GHz. Each U.S.-licensed geostationary satellite orbit fixed satellite service and broadcast satellite service operator in the bands 10.7 GHz to 14.5 GHz may submit up to 10 test points for this section containing the latitude, longitude, altitude, azimuth, elevation angle, antenna size, efficiency to be used by non-geostationary satellite orbit fixed-satellite service licensees in the bands 10.7 GHz to 14.5 GHz during the upcoming year.

(2) Operational equivalent power flux-density, space-to-Earth direction, (operational EPFD<sub>down</sub>) limits. Using the information contained in (b)(1) of this section plus the measured space station

antenna patterns, provide the result of the execution of the computer simulation for the anticipated in-line operational EPFD<sub>down</sub> levels for each of the submitted test points provided by the Commission. Submitted test points are based on inputs from U.S.-licensed geostationary satellite orbit fixed-satellite service and broadcast satellite service operators in the bands 10.7 GHz to 14.5 GHz. Each U.S.-licensed geostationary satellite orbit fixed-satellite service and broadcast satellite service operator in the bands 10.7 GHz to 14.5 GHz may submit up to 10 test points for this section containing the latitude, longitude, altitude, azimuth, elevation angle, antenna size, efficiency to be used by non-geostationary satellite orbit fixed-satellite service licensees in the bands 10.7 GHz to 14.5 GHz during the upcoming year.

(c) The NGSO FSS system licensee shall, on June 30 of each year, file a report with the International Bureau and the Commission's Columbia Operations Center in Columbia, Maryland, certifying that the system continues to operate within the bounds of the masks and other input parameters specified under 25.146(a) and 25.146(b) as well as certifying the status of the additional operational EPFD<sub>down</sub> levels into the 3 m and 10 m geostationary satellite orbit fixed-satellite service receiving Earth station antennas, the operational EPFD<sub>down</sub> levels into the 3 m, 4.5 m, 6.2 m and 10 m geostationary satellite orbit fixed-satellite service receiving Earth station antennas and the operational

EPFD<sub>down</sub> levels into the 180 cm geostationary satellite orbit broadcast satellite service receiving Earth station antennas in Hawaii and 240 cm geostationary satellite orbit broadcast satellite service receiving Earth station antennas in Alaska.

\* \* \* \* \*

(f) Coordination will be required between NGSO FSS systems and GSO FSS earth stations in the frequency band 10.7–12.75 GHz when all of the following threshold conditions are met:

- (1) Bandwidth overlap; and
- (2) The satellite network using the GSO has specific receive earth stations which meet all of the following conditions: earth station antenna maximum isotropic gain greater than or equal to 64 dBi; G/T of 44 dB/K or higher; and emission bandwidth of 250 MHz; and the EPFD<sub>down</sub> radiated by the satellite system using the NGSO into the GSO specific receive earth station, either within the U.S. for domestic service or any points outside the U.S. for international service, as calculated using the ITU software for examining compliance with EPFD limits set forth in Article 22 of the ITU Radio Regulations exceeds  $-174.5 \text{ dB(W/(m}^2/40\text{kHz))}$  for any percentage of time for NGSO systems with all satellites only operating at or below 2500 km altitude, or  $-202 \text{ dB(W/(m}^2/40\text{kHz))}$  for any percentage of time for NGSO systems with any satellites operating above 2500 km altitude.

(3) If there is no ITU software for examining compliance with EPFD limits

set forth in Article 22 of the ITU Radio Regulations, then the EPFD<sub>down</sub> coordination trigger is suspended and the requirement for coordination will be based on bandwidth overlap and the satellite network using the GSO has specific receive earth stations which meet all of the following conditions: earth station antenna maximum isotropic gain greater than or equal to 64 dBi; G/T of 44 dB/K or higher; and emission bandwidth of 250 MHz.

\* \* \* \* \*

■ 3. In § 25.208, paragraph (l) is amended by adding Footnote 5 to the heading of Table 1L and paragraph (m) is amended by adding Footnote 5 to the heading of Table 1M to read as follows:

**§ 25.208 Power flux density limits.**

\* \* \* \* \*

(1) \* \* \*

<sup>5</sup> For each reference antenna diameter, the limit consists of the complete curve on a plot which is linear in decibels for the EPFD levels and logarithmic for the time percentages, with straight line joining the data points.

\* \* \* \* \*

(m) \* \* \*

<sup>5</sup> For each reference antenna diameter, the limit consists of the complete curve on a plot which is linear in decibels for the EPFD levels and logarithmic for the time percentages, with straight line joining the data points.

\* \* \* \* \*

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