

protection levels and calculation methods in the ITU's Article 29. The Commission maintained the requirement in footnote US355 that NGSO FSS licensees in the 10.7–11.7 GHz band coordinate with RAS entities to reach "mutually acceptable agreements." This flexible approach will allow the use of Article 29 procedures or any other procedure deemed appropriate by the interested parties.

7. The Commission denied Hughes's Petition to revisit language in the *First Report and Order*, 16 FCC Rcd 4096, December 8, 2000, 66 FR 7607, January 24, 2001, recommending professional installation of two-way NGSO FSS antennas. The Commission continues to find that the language is neither overly broad nor unnecessary, and is harmonious with the language of other NGSO FSS decisions.

### Final Regulatory Flexibility Analysis

8. The Regulatory Flexibility Act (RFA)<sup>1</sup> requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

9. The Commission has adopted technical rules to facilitate spectrum sharing between new NGSO FSS systems in the Ku band and existing services in this spectrum. Wherein we grant in part Skybridge's requests for reconsideration, we modify these rules to further these goals. We acknowledge that as the radio spectrum is increasingly used, it becomes more difficult to accommodate all requests for access to the radio spectrum, however, this action applies existing frequency coordination procedures to NGSO FSS systems sharing spectrum with fixed services. However, frequency coordination should ensure that new operations of either service will protect existing operations and have access to spectrum if it is technically possible.

10. In considering the Skybridge's request for NGSO FSS access to the 13.15–13.2125 GHz band, the Commission considered the impact on terrestrial operations granting such a request might have. Further, the Commission adopted rules that carefully weigh the complexity of sharing with mobile BAS/CARS operations could impose against the need for minimal measures to accommodate sharing in bands increasingly congested by co-primary satellite and terrestrial use.

11. Regarding sharing between NGSO FSS systems and broadcast auxiliary ("BAS") operations, the *Report and Order* stated that the Commission will adopt some form of geographic protection areas for terrestrial operations in those bands used by NGSO FSS gateway earth stations. These protection areas will be further defined in a future proceeding, but are intended to facilitate the growth of terrestrial operations, while not unnecessarily hindering the deployment of NGSO FSS systems. Further, to ensure BAS operations in all areas can continue to operate unencumbered by new NGSO FSS systems, this *Second Memorandum Opinion and Order* reinforces efforts to minimize impacts on BAS/CARS entities by retaining the four channels at 13.15–13.2125 GHz for exclusive co-primary BAS/CARS use in 50 km areas around major TV markets and by requiring NGSO FSS operations observe power limits to ensure continued operations outside those select areas.

### List of Subjects

#### 47 CFR Part 2

Radio, Television.

#### 47 CFR Part 25

Satellites.

#### 47 CFR Part 74

Television.

#### 47 CFR Part 78

Cable television.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 25, 74, and 78 as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

- 2. Amend § 2.106, the Table of Frequency Allocations as follows:
  - a. In the list of Non-Government (NG) footnotes, footnote NG53 is revised.
  - b. In the list of United States (US) footnotes, footnote US356 is revised.

The revisions read as follows:

### § 2.106 Table of Frequency Allocations.

#### United States (US) Footnotes

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US356 In the band 13.75–14 GHz, an earth station in the fixed-satellite service shall have a minimum antenna diameter of 4.5 m and the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW. In addition the e.i.r.p., averaged over one second, radiated by a station in the radiolocation service shall not exceed 59 dBW. Receiving space stations in the fixed-satellite service shall not claim protection from radiolocation transmitting stations operating in accordance with the United States Table of Frequency Allocations. ITU Radio Regulation No. 5.43A does not apply.

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#### Non-Federal Government (NG) Footnotes

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NG53 The band 13.15–13.20 GHz is reserved for television pickup and CARS pickup stations inside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter. Outside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter, television pickup stations, CARS stations and NGSO FSS gateway earth stations shall operate on a primary co-equal basis. The band 13.20–13.2125 GHz is reserved for television pickup stations on a primary basis and CARS pickup stations on a secondary basis inside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter. Outside a 50 km radius of the 100 markets delineated in § 76.51 of this chapter, television pickup stations and NGSO FSS gateway earth stations shall operate on a co-primary basis, CARS stations shall operate on a secondary basis. Fixed television auxiliary stations licensed pursuant to applications accepted for filing before September 1, 1979, may continue operation on channels in the 13.15–13.25 GHz band, subject to periodic license renewals. NGSO FSS gateway uplink transmissions in the 13.15–13.2125 GHz segment shall be limited to a maximum EIRP of 3.2 dBW towards 0 degrees on the radio horizon. These provisions shall not apply to GSO FSS operations in the 12.75–13.25 GHz band.

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## PART 25—SATELLITE COMMUNICATIONS

■ 3. 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

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).