

construction; and (4) launch. In addition, the Commission adopts information requirements for licensees to demonstrate that they have met each of the new milestones.

To protect further against speculative applications, the Commission adopts a limit on the number of pending applications and unbuilt satellites any applicant may have in any frequency band. Those limits are five GSO orbit locations and one NGSO satellite system. So that applicants do not undercut the policy goals of these limits, the Commission also adopts an attribution rule prohibiting a party from filing a satellite application if it holds more than 33 percent of the total asset value of applicants with applications for five GSO orbital locations, and one NGSO satellite system, in any frequency band, pending before the Commission. Stricter limits apply to applicants who establish a pattern of missing milestones. Applicants who have established such a pattern, and have two or more applications pending, or two licensed-but-unbuilt satellite systems of any kind, will not be permitted to file another GSO-like application or NGSO-like application in any frequency band.

In addition to these safeguards, the Commission prohibits applicants from selling their place in the queue, and require applications to be substantially complete.

The Commission adopts a number of other provisions in this *First Report and Order*. First, the Commission adopts mandatory electronic filing of space station applications. Second, the Commission creates a streamlined procedure for replacement satellite applications. Third, the Commission revises its full frequency reuse requirements. The Commission also extends the license terms of certain satellite licenses from 10 to 15 years. Finally, the Commission established a freeze on new satellite applications. This freeze is terminated as of August 27, 2003.

In addition, the Commission revises the procedures for non-U.S.-licensed satellite operators seeking access to the U.S. market, to be consistent with the new procedures for U.S. license applications. The Commission also adopted provisions for Permitted List satellite modifications, replacements of Permitted List satellites, and changes of ownership of satellites on the Permitted List.

#### Ordering Clauses

Accordingly, *it is ordered*, pursuant to sections 1, 2, 4(i), 4(j), 7(a), 11, 301, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as

amended, 47 U.S.C. 151, 152, 154(i), 154(j), 157(a), 161, 301, 303(c), 303(f), 303(g), 303(r), that this *First Report and Order* in IB Docket Nos. 02–34 and 02–54 is hereby *adopted*.

*It is further ordered* that parts 1 and 25 of the Commission's rules *are amended*.

*It is further ordered* that the provisions of this *First Report and Order* in IB Docket Nos. 02–34 and 02–54, other than §§ 25.137(d)(4), 25.164(c) through (e), and 25.165, will be effective August 27, 2003.

*It is further ordered* that §§ 25.137(d)(4), 25.164(c) through (e), and 25.165, as adopted in this *First Report and Order*, will be effective September 11, 2003.

*It is further ordered* that, effective upon the adoption date of this *First Report and Order* in IB Docket Nos. 02–34 and 02–54, no applications for space station licenses for any satellite service addressed in this *First Report and Order* will be accepted for filing. This freeze will continue until August 27, 2003.

*It is further ordered* that the license term of each space station license issued on or before April 17, 2002, and in effect on the release date of this Order, *is hereby extended* to 15 years, starting on the date the licensee certified to the Commission that the space station was successfully placed in orbit and its operations fully conform to the terms and conditions of its authorization.

*It is further ordered* that the Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *First Report and Order* in IB Docket Nos. 02–34 and 02–54, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Part 1

Administrative Practice and Procedure.

##### 47 CFR Part 25

Satellites.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 25 as follows:

#### PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

■ 2. Amend § 1.1113 by adding paragraph (d) to read as follows:

#### § 1.1113 Return or refund of charges.

\* \* \* \* \*

(d) Applicants for space station licenses under the first-come, first served procedure set forth in part 25 of this title will be entitled to a refund of the fee if, before the Commission has placed the application on public notice, the applicant notifies the Commission that it no longer wishes to keep its application on file behind the licensee and any other applicants who filed their applications before its application, and specifically requests a refund of the fee and dismissal of its application.

#### 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 amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309, 332, unless otherwise noted.

■ 4. Amend § 25.112 by adding paragraph (a)(3) and revising paragraph (b) introductory text to read as follows:

#### § 25.112 Defective applications.

(a) \* \* \*

(3) The application requests authority to operate a space station in a frequency band that is not allocated internationally for such operations under the Radio Regulations of the International Telecommunication Union.

(b) Applications for space station authority found defective under paragraph (a)(3) of this section will not be considered. Applications for authority found defective under paragraphs (a)(1) or (a)(2) of this section may be accepted for filing if:

\* \* \* \* \*

■ 5. Amend § 25.113 by revising paragraph (g) to read as follows:

#### § 25.113 Construction permits, station licenses, launch authority.

\* \* \* \* \*

(g) A launch authorization and station license (*i.e.*, operating authority) must be applied for and granted before a space station may be launched and operated in orbit. Request for launch authorization may be included in an application for space station license. However, an application for authority to launch and operate an on-ground spare satellite will be considered pursuant to the following procedures:

(1) Applications for launch and operation of an on-ground spare NGSO-