

Protests & Litigation

Litigation

Case Name	Docket/File #	Court	File Date	Notes	Disposition	Disposition Date
Space Exploration Technologies Corp. v. USA	2:19-cv-07927 (before transfer: 1:19-cv-00742)	Central District of California (transferred from US Court of Federal Claims)	5/17/2019	SpaceX argued that the U.S. Air Force Space and Missiles Systems Center ("SMC") acted unlawfully, arbitrarily, and capriciously in awarding Launch Service Agreements to Blue Origin, LLC, United Launch Services, LLC ("ULS"), and Orbital Sciences Corporation in connection with the National Security Space Launch Program. C.D. Cal. decided that SMC sufficiently identified its needs and provided a rational explanation for its award decision, while SpaceX had failed to craft its LSA proposal with due considerations for SMC's stated needs and mission. C.D. Cal. denied SpaceX's Motion for Judgment on the Certified Administrative Record and entered judgment in favor of the defendants on all claims. The Court held: "SpaceX may be the revolutionary leader in space technology, as it repeatedly claims in its papers. Still, it had the sole responsibility to craft its LSA proposal with due consideration for the Agency's stated needs and mission, no matter how limited those needs may have been compared to SpaceX's ambitious vision. For the following reasons, the Court DENIES SpaceX's Motion."	Judgment for Defendants as to all claims for relief.	10/2/2020
Space Exploration Technologies Corp. v. USA	1:14-cv-00354	US Court of Federal Claims	4/28/2014	SpaceX alleged that the U.S. Air Force entered into an unlawful contract with ULS to procure rocket launch vehicles on a sole source basis, pursuant to the U.S. Air Force's Evolved Expendable Launch Vehicle ("EELV") Program. In press statements at the time, Musk charged that the U.S. Air Force's award "essentially blocks companies like SpaceX from competing for national security launches." On December 19, 2014, SpaceX filed a Motion for Judgment on the Administrative Record, which the court deferred deciding until mediation between SpaceX and the U.S. Air Force concluded. Conclusions of the mediation were not released, but the U.S. Air Force issued a Notice Of Press Announcement soon after the end of the scheduled mediation stating that, while no new entrants were able to	Stipulated dismissal following mediation	1/23/2015

				be certified [as providers of EELVs] by December 2014, a "new entrant [SpaceX] is close."		
Space Exploration Technologies Corp. v. USA	1:05-cv-01053	US Court of Federal Claims	9/30/2005	SpaceX filed a "Pre-Award Protest" seeking to enjoin the award of contracts to Boeing and Lockheed Martin related to the Air Force's Evolved Expendable Launch Vehicle ("EELV") Program for launching national security satellites into orbit. SpaceX challenged the Air Force's intent to issue the RFPs only to Boeing and Lockheed Martin and sought a declaration vacating the Air Force's Justification and Approval document (J&A) authorizing limited competition. SpaceX filed the action in federal court after a failed agency-level challenge and Government Accountability Office ("GAO") protest. The court dismissed the action, holding that because the RFPs were only for launch services in FY 2006 and SpaceX had conceded that it would not have full EELV launch ability before FY 2007, SpaceX was not a "realistic or qualified bidder" and did not have standing to bring the bid protest.	Dismissed for lack of subject matter jurisdiction	10/26/2005
Space Exploration Technologies Corp. v. The Boeing Company and Lockheed Martin Corp.	2:05-cv-07533 (district court); 06-55907 (appeal)	Central District of California; Ninth Circuit Court of Appeals	10/19/2005	SpaceX's action against Boeing and Lockheed Martin claims that they sought to preclude competition in the provision of satellite launch vehicles and services to the Government. The complaint alleged antitrust, racketeering, and unfair business practices claims, including under the Sherman Act, the Clayton Act, RICO, the California Cartwright Act, and the California Business & Professional Code. The court dismissed the action, holding that SpaceX failed to allege an injury sufficient to satisfy Article III standing requirements because SpaceX did not yet have the capabilities to compete in the EELV market. SpaceX appealed, and the Ninth Circuit Court of Appeals affirmed the dismissal.	Dismissed	6/9/2008

Space Exploration Technologies Corporation v. Northrop Grumman Space and Mission Systems Corp. et al.	2:04-cv-04375	Central District of California	6/17/2004	SpaceX and Northrop filed competing lawsuits related to Northrop's oversight, on behalf of the Air Force, of SpaceX's development of rocket engines for the Naval Research Laboratory. The government relied on Northrop, as a large specialized contractor, to supervise SpaceX's work, provided that Northrop complied with fiduciary duties (1) to oversee SpaceX's work with impartiality and (2) to ensure that confidential information gained in this capacity is not used to compete. SpaceX alleged various violations of these fiduciary duties. The parties entered into a settlement agreement and stipulated to dismissal of the actions.	Stipulated dismissal following settlement	2/3/2005
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GAO Protests

Matter Name	Docket/File #	Court	File Date	Notes	Disposition	Disposition Date
Matter of Space Exploration Technologies Corporation	B-402186	GAO	10/26/2009	SpaceX protested the issuance of a delivery order to Orbital Sciences Corporation on behalf of NASA for space launch services for NASA's Lunar Atmosphere and Dust Environment Explorer ("LADEE") mission. SpaceX claimed that the issuance of the delivery order violated the Commercial Space Act of 1998 ("Space Act") with regard to (1) the Act's requirements to acquire launch services from United States commercial providers because NASA failed to consider certain SpaceX vehicles, and (2) to notify Congress of the conversion of intercontinental ballistic missile ("ICBM") assets for use in space launches. The GAO denied the protest.	Protest denied	2/1/2010
Matter of Space Exploration Technologies Corporation	N/A	GAO	2/11/2019	SpaceX protested a contract that NASA awarded to ULA to launch a spacecraft to explore the Trojan asteroids around Jupiter. As a result of the protest, NASA had to issue a stop-work order. At the time, SpaceX claimed in a statement that the protest was the first time it had challenged a NASA contract. SpaceX withdrew the protest two months.	Withdrawn	April 2019

FCC Opposition

Proceeding Name	Docket/File #	Pleading Type	File Date	Notes	FCC Disposition
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Mitigation of Orbital Debris in the New Space Age	IB Docket No. 18-313	Petition for Reconsideration	9/24/20	Seeking reconsideration on the FCC's decision "to retain the exception for non-U.S. satellite operators to the rules that protect the orbital environment."	Ongoing
Further Streamlining Part 25 Rules Governing Satellite Services	IB Docket No. 18-314	Petition for Reconsideration	3/31/21	Seeking reconsideration of the FCC's decision to "dramatically lengthen the build-out period for individually-licensed earth stations licensed through Section 25.136 of the Commission's rules to communicate with NGSO satellite systems."	Ongoing
Further Streamlining Part 25 Rules Governing Satellite Services	IB Docket No. 18-314	Opposition to Petition for Reconsideration	5/6/21	Opposing the Satellite Industry Association's petition for reconsideration seeking FCC reversal of the requirement for re-coordination of earth stations operating in the 27.5-28.35 GHz band used in the Upper Microwave Flexible Use Service deployed more than a year after initial authorization.	Ongoing
Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters	IB Docket No. 16-408	Response to Petitions for Reconsideration	2/20/18	Opposing petitions for reconsideration filed by Viasat, Inc. ("Viasat") and WorldVu Satellites Limited ("OneWeb") and supports the petition for reconsideration filed jointly by Iridium Constellation LLC, EchoStar Satellite Operating Corporation/Hughes Network Systems, LLC, and Telesat Canada seeking reconsideration of a narrow aspect of footnote NG62 to the domestic Table of Frequency Allocations.	Ongoing
Viasat, Inc. Application for Review of Auction 904 Eligibility Determination	GN Docket No. 21-231	Opposition to ViaSat Application for Review	6/28/21	Urging FCC to deny Viasat Application for Review because FCC staff "correctly rejected Viasat's application to qualify an unauthorized satellite system in the low-latency tier of the RDOF auction."	Ongoing
Petition for Rulemaking of MVDDS 5G Coalition Petition for Rulemaking to Permit MVDDS Use of the 12.2-2.7 GHz Band for Two-	WT Docket No. 20-443; GN Docket No. 17-183; RM 11768	Opposition	6/9/16	Filed opposition to the MVDDS Coalition's request to "eliminate or materially weaken the coprimary status and accompanying protections afforded to NGSO Fixed Satellite Service operations in the 12.2-12.7 GHz portion of the Ku-band. "	Ongoing

Way Mobile Broadband Service					
Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service	RM 11768	Joint Letter in Opposition	10/20/20	Several 12 GHz Operators opposed MVDDS Organizations seeking to convert the 12GHz Band for two-way, terrestrial mobile operations.	Proceeding Terminated - 36 FCC Rcd 606 (January 12, 2021)
Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters	IB Docket No. 16-408	Ex Parte Letter Response	8/3/17	Among other things, voiced opposition to the Commission's pending NGSO NPRM proposition to add a secondary FSS (space-to-Earth) allocation to this band, but to limit deployment to individually licensed earth stations.	FCC eliminate the domestic coverage requirement for non-geostationary-satellite orbit, fixed-satellite service (NGSO FSS) systems - 35 FCC Rcd 10168 (August 26, 2020)
Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters	IB Docket No. 16-408	Ex Parte Letter Response	9/19/17	Requesting FCC to reject ex parte arguments made by WorldVu Satellites Limited ("OneWeb") regarding the equivalent power flux-density ("EPFD") limits applicable to certain NGSO satellite systems, which OneWeb filed in response to a SpaceX submission demonstrating that OneWeb's EPFD assertions result from an improper application of the analytical tools developed by the ITU to determine compliance.	FCC eliminate the domestic coverage requirement for non-geostationary-satellite orbit, fixed-satellite service (NGSO FSS) systems - 35 FCC Rcd

					10168 (August 26, 2020)
Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters	IB Docket No. 16-408	Ex Parte Letter Response	9/19/17	Arguing that "assertions made by Telesat Canada that any $\Delta T/T$ regime for defining in-line events would be unworkable because NGSO operators would not be able to exchange the relevant information and adjust their operations in real time. In SpaceX's view, Telesat's assertions significantly overcomplicate the process of implementing the $\Delta T/T$ rules."	FCC eliminate the domestic coverage requirement for non-geostationary-satellite orbit, fixed-satellite service (NGSO FSS) systems - 35 FCC Rcd 10168 (August 26, 2020)
Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service	RM 11768	Ex Parte Letter Response	7/22/20	Opposing comments submitted by Multichannel Video Data and Distribution Service providers supporting the petition to permit the use of two-way mobile broadband service in the 12.2-12.7 GHz band.	Proceeding Terminated - 36 FCC Rcd 606 (January 12, 2021)
Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service	RM 11768	Ex Parte Letter Response	8/6/20	Opposing comments submitted by Multichannel Video Data and Distribution Service providers supporting the petition to permit the use of two-way mobile broadband service in the 12.2-12.7 GHz band.	Proceeding Terminated - 36 FCC Rcd 606 (January 12, 2021)
Petition for Rulemaking to Permit MVDDS	RM 11768	Ex Parte Letter Response	11/5/20	Met with FCC staff to discuss its opposition to MVDDS Organizations seeking to convert the 12GHz Band for two-way, terrestrial mobile operations.	Proceeding Terminated - 36 FCC Rcd

Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service					606 (January 12, 2021)
Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service	RM 11768	Ex Parte Letter Response	12/3/20	Responding to ex parte letters filed by DISH, RS Access, and other MVDDS operators. SpaceX states, "[g]iven that MVDDS licensees no longer support the technical underpinnings of their Petition and no longer promote any clear policy proposal for the 12.23-12.7 GHz band . . . the Commission should promptly deny the Petition."	Proceeding Terminated - 36 FCC Rcd 606 (January 12, 2021)
Modernizing and Expanding Access to 70/80/90 GHz Bands	WT Docket No. 20-133	Ex Parte Letter Response	12/7/20	Jointly responded to ex parte filings by Aeronet Global Communications, Inc. and Loon LLC stating that their claims are "incorrect," and that there are "significant issues relating to potential interference between mobile services and gateway earth stations and relating to the operation of the registration database for endpoints in motion that have not been resolved, or even addressed, in the record." SpaceX states that the FCC "cannot approve rules permitting aeronautical use of the 70 and 80 GHz bands without further comment to address these issues."	Ongoing
Mitigation of Orbital Debris in the New Space Age	IB Docket No. 18-313	Ex Parte Letter Response	12/30/20	Opposing Viasat's "plea for a flawed aggregate metric for collision risk."	Ongoing
In the Matter of Expanding Flexible Use of the 12.2-12.7 GHz Band Expanding the Use in the Mid-Band Spectrum	WT Docket No. 20-443; GN Docket No. 17-183	Ex Parte Notice Filing	8/2/21	Meeting with FCC staff to present evidence as to why "RS Access's advocacy piece was fatally flawed" and that "RS Access's submission demonstrates a disturbing lack of understanding of how customers are actually served in the 12 GHz Band."	Ongoing

Between 3.7-24GHZ					
Request of Echostar Corporation for Amendment of the Commission Rules to Redesignate the 28.6-29.1 GHz and (Earth-to-space) and 18.8-9.3 GHz (space-to-Earth) Band to Allow Geostationary Fixed -Satellite Servie Operations on a Co-Primary Basis	RM 10767	Reply Comment	11/12/03	Opposed comments filed in support of the petition for rulemaking filed by Echostar Satellite Corporation to reverse the Commission's decision that reserves the 18.8-19.3 GHz and 28.6-29.1 GHz bands for exclusive use on a primary basis for non-geostationary fixed satellite services (iNGSO FSS). SpaceX states that the FCC's "action would be precipitous, ill advised and harmful to the nascent NGSO-FSS industry, and the petition should be dismissed."	Noted - Petition for Rulemaking Denied - 29 FCC Rcd 14731 (December 8, 2014)
Assessment and Collection of Regulatory Fees for Fiscal Year 2020; Assessment and Collection of Regulatory Fees for Fiscal Year 2019	MD Docket No. 20-105; MD Docket No. 19-105	Reply Comments	6/29/20	Requesting FCC to "reject arguments that incorrectly assert that non-U.S.-licensed systems somehow derive materially less benefit from access to the U.S. market than U.S. licensees or that seek to tie fees to the number of satellites in an operator's system."	Adopted 2019 Regulatory Fees; Issued NPRM with respect to 2020 Regulatory Fees - 35 FCC 4976 (May 13, 2020)
Modernization of Section 25.117 of the Commission's Rules for Modification of NGSO FSS	RM 11861	Reply Comments	9/1/20	Requesting the FCC to "reject Amazon's unduly restrictive proposals that would stifle innovation in the NGSO industry," and instead "the Commissions should continue its flexible approach, which recognizes that operators themselves are in the best position to determine how to serve consumers' needs, provided that such improvements do not harm other operators in the same processing round."	Ongoing

Systems in the New Space Age					
In the Matter of WorldVu Satellites Limited - Petition for Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO Design	File No. SAT-LOI-20160428-00041	Comments	15-Aug-16; 4-Apr-17	Argues that the OneWeb system design makes inefficient use of spectrum and will hinder shared use by other operators; Requested further information from OneWeb regarding its plans to mitigate orbital collisions and debrisRequested that we defer consideration of the Petition until OneWeb provided information concerning an announced merger with Intelsat SA and significant new investment by SoftBank Group Corporation.	FCC granted WorldVu U.S. Market Access - 32 FCC Rcd 5366 (June 23, 2017)
In the Matter of LeoSat MA, Inc. - Petition for Declaratory Ruling Concerning U.S. Market Access for the LeoSat Ka-band Low-Earth Orbit Satellite System.	File No. SAT-PDR 20161115-00112	Comments	6/26/17	Questions whether LeoSat's proposal to dispose the satellites at a higher altitude that results in an orbital lifetime in excess of 100 years would hinder space safety and the public interest. SpaceX also argued that LeoSat lacks a substantive showing that its system will be able to share spectrum efficiently and equitably with other Ka-band NGSO systems.	FCC granted LeoSat U.S. Market Access - 33 FCC Rcd 11486 (November 15, 2018)
In the Matter of Space Norway AS - Petition for Declaratory Ruling Granting Access to the U.S. Market for the Arctic Satellite Broadband Mission	File No. SAT-PDR-20161115-00111	Comment	6/27/17	Argues that the ASBM system design makes inefficient use of spectrum and will hinder shared spectrum use by other NGSO operators and that the FCC consider conditions that would promote efficient use of spectrum.	FCC granted Space Norway U.S. Market Access - 32 FCC Rcd 9649 (November 2, 2017)

In the Matter of Karousel Satellite LLC - Application for Authority to Launch and Operate Non-Geostationary Earth Orbit Satellite System in Fixed Satellite Service	File Nos. SAT-LOA-20161115-00113 and SAT-AMD-20180801-00058	Comments/Reply Comments	26-Jun-17; 14-Jul-2017	Suggests that the FCC should consider conditions of grant that would promote efficient spectrum sharing among operators, including uplink power limits for earth stations communicating with the Karousel system and conditions designed to promote sharing among LEO and HEO systems.	FCC granted Authorization - 33 FCC Rcd 8485 (August 15, 2018)
Kepler Communications Inc. - Petition for Declaratory Ruling Requesting U.S. Market Access	File No. SAT-PDR-20161115-00114	Comments		Requesting the FCC to seek additional information from Kepler to ensure that its system is capable of complying with any applicable rules regarding avoidance of in-line events, in addition to or in place of the noncompliant and likely ineffective strategy described in Kepler's application.	FCC granted Kepler U.S. Market Access - 33 FCC Rcd 11453 (November 15, 2018)
Connect America Fund Phase II Auction	AU Docket No.17-182; WC Docket No 10.-90	Comments	9/18/17	Stating that the FCC's current proposals "unnecessarily conflate NGSO with traditional satellite providers and preclude them from selecting high speed and low latency tiers, impose an unnecessary requirement to provide standalone voice service, and fail to clarify how the Public Notice's list of spectrum bands might be used during the bidding process" and requesting the FCC to consider SpaceX's proposals to "(1) evaluate all bidders based on the quality and level of services provided, rather than exclude technologies broadly, (2) clarify that provision of a standalone voice service is not required to bid in or receive funding from Auction 903, and (3) clarify how the Commission intends to use the spectrum chart included as Appendix B of the Public Notice."	Ongoing
In the Matter of Telesat Canada- Petition for Declaratory Ruling Concerning U.S. Market Access for Telesat's V-	File No. SAT-PDR-20170301-00023	Comments; Reply Comments	9-Sep-17; 23-Oct-17	Suggested that Telesat's system, as proposed, would use earth stations with high equivalent isotropically radiated power (EIRP) that pose a significant risk to other NGSO systems operating at lower power levels and requested that FCC consider limitations on earth station transmission power to ensure that spectrum is used efficiently.	FCC granted Telesat U.S. Market Access - 33 FCC Rcd 11469 (November 19, 2018)

Band NGSO Constellation					
Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters	IB Docket No. 16-408	Reply Comment	1/29/18	Opposed the views of commenters differing than SpaceX's view supporting the FCC's removal the domestic coverage requirement for NGSO, FSS systems operating in all permitted spectrum bands.	FCC eliminate the domestic coverage requirement for non-geostationary-satellite orbit, fixed-satellite service (NGSO FSS) systems - 35 FCC Rcd 10168 (August 26, 2020)
Assessment and Collection of Regulatory Fees for Fiscal Year 2019	MD Docket No 19-105	Comments	6/7/19	Jointly filed comments with other satellite operators opposing FCC's increase of regulaotry fees.	Adopted 2019 Regulatory Fees; Issued NPRM with respect to 2020 Regulatory Fees - 35 FCC 4976 (May 13, 2020)
In the Matter of Kuiper Systems, LLC Application for Authority to Deploy and Operate a Ka-band Non-Geostationary Satellite Orbit System	SAT-LOA-20190704-00057	Comments; Reply Comments	28-Oct-19; 25-Nov-19	Noted that Kuiper failed to submit a casualty risk analysis as required by section 25.114(d)(14)(iv) of the Commission's rules, which requires an estimate regarding whether portions of a satellite will survive re-entry and reach the Earth's surface, and an estimate regarding the probability of human casualty. SpaceX also states that Kuiper offers no explanation for why it did not participate in the initial NGSO processing rounds and that to treat Kuiper as if it had participated makes the processing round pointless.	FCC granted Kuiper's Application - 35 FCC Rcd 8324 (July 29, 2020)

<p>Modernization of Section 25.117 of the Commission's Rules for Modification of NGSO FSS Systems in the New Space Age</p>	<p>RM 11861</p>	<p>Comments</p>	<p>8/17/20</p>	<p>Opposing Amazon petition for rulemaking seeking to "limit the ability of NGSO FSS operators to modify their authorizations. SpaceX states, "[h]aving failed to secure preferential spectrum rights for its own NGSO FSS system, Amazon has now unfortunately pivoted to proposing rule changes that would force competitors to choose between either upgrading their systems to implement innovative technologies and other improvements or continuing to operate a potentially outmoded system to retain spectrum rights."</p>	<p>Ongoing</p>
<p>Assessment and Collection of Regulatory Fees for Fiscal Year 2020</p>	<p>MD Docket No. 20-105</p>	<p>Comments</p>	<p>12/10/20</p>	<p>Opposing proposals for the FCC to "use arbitrary system characteristics - such as the number of satellites or the types of services offered - to increase or reduce operators' regulatory fee obligations."</p>	<p>FCC adopted new distinction between NGSO satellite systems, as further described below, by creating two new fee subcategories, one for "less complex" NGSO systems and a second for all other NGSO systems identified as "other" NGSO systems, both under the broader category of "Space Stations (Non-Geostationary Orbit)" in the Report and Order. - 2021</p>

