



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 21-1163

Released: September 16, 2021

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON NEPTUNO MEDIA'S REQUEST FOR WAIVER OF THE COMMISSION'S PART 2 AND PART 101 RULES

WT Docket No. 21-364

Comments Due: October 18, 2021

Reply Comments Due: November 2, 2021

On July 13, 2021, Neptuno Media, Inc. D/B/A Neptuno Networks (“Neptuno”) filed a request¹ for relief from Sections 2.805 and 2.1204 of the Commission’s rules² governing the operation and importation of unauthorized equipment, as well as a request for waiver of sections 101.133(d) and 101.1005(b)(1) of the Commission’s rules, which prohibits subscriber units from transmitting in the 29.1-29.25 GHz band.³

Neptuno is an Internet service provider based in Puerto Rico serving all of Puerto Rico and the U.S. Virgin Islands.⁴ It is the licensee of Part 30 Upper Microwave Flexible Use Service (UMFUS) licenses in the 27.5-28.35 GHz band and Part 101 Local Multipoint Distribution Service (LMDS) licenses in the 29.1-29.25 GHz band.⁵ After Hurricane Maria hit Puerto Rico in 2017, Neptuno selected Intracom, a Greece-based global telecommunication systems and solutions vendor, to provide equipment for broadband service in the UMFUS and LMDS bands.⁶

On March 17, 2021, Neptuno learned that the Intracom equipment had not been certified under the Commission’s rules.⁷ Neptuno states that a waiver is necessary to permit continued operation of 289 terminal stations.⁸ Neptuno represents that the hub station model was certified in December

¹ Neptuno Media, Inc. Request for Waiver, filed to non-docketed ECFS INBOX-1.3 on July 13, 2021 (*Request*).

² 47 CFR §§ 2.805, 2.1204.

³ See 47 CFR § 2.805 (“A radio frequency device may not be operated prior to equipment authorization...”); § 2.1204 (“Radio frequency devices may be imported only if...[t]he radio frequency device has been issued an equipment authorization by the FCC.”); § 101.133(d) (“LMDS licensees shall not operate transmitters from subscriber locations in the 29.1-29.25 GHz band.”); § 101.1005.

⁴ *Request* at 1.

⁵ *Id.* at 2, Exhibit A.

⁶ *Id.* at 2.

⁷ *Id.* at 3.

⁸ *Id.* at 2.

2020 but that the subscriber equipment had not yet been certified.⁹ Neptuno seeks a time-limited waiver of the Commission's unauthorized device operation and importation restrictions, and asserts that such a waiver will serve the public interest and will not increase the risk of interference.¹⁰ Neptuno states that Intracom has represented that the equipment in question complies with the Commission's emissions limits and European Union rules.¹¹

For the 29.1-29.25 GHz band segment, the Commission's table of frequency allocations provides that 29.1-29.25 GHz is co-primary for feeder links for non-geostationary-satellite systems in the mobile satellite service (MSS) and LMDS,¹² and sections 101.133(d) and 101.1005(b)(1) of the Commission's rules limits LMDS to hub-to-subscriber transmissions in this band segment.¹³ Neptuno requests a waiver to allow transmission of subscriber units in the band.¹⁴ Neptuno states that because it is the licensee for the 29 GHz band in Puerto Rico its operations do not cause interference to any other licensees, and that because Puerto Rico is an island there are no issues of adjacent market interference.¹⁵

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) seeks comment on all aspects of this request for waiver. To develop a complete record on the issues presented by this request, the proceeding will be treated, for *ex parte* purposes, as a "permit-but-disclose" proceeding in accordance with Section 1.1200(a) of the Commission's rules, subject to the requirements under Section 1.1206(b). Neptuno filed its petition electronically as a non-docketed proceeding in the Commission's Electronic Comment Filing System.¹⁶ We have opened a new docket, **WT Docket 21-364**, to facilitate consideration of this request and have moved Neptuno's petition into this docket. Parties should file all comments and reply comments in **WT Docket 21-364**.

Filing Requirements. Parties may file comments, identified by WT Docket No. **21-364**, by any of the following methods:

- Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial courier or by the U.S. Postal Service. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service First-Class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- **Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken**

⁹ *Id.*

¹⁰ *Id.* at 5.

¹¹ *Id.* at 5-6.

¹² 47 CFR § 2.106, n.NG166. Pursuant to 47 CFR § 25.202(g), the edges of the band are also used for telemetry, tracking, and command functions.

¹³ 47 CFR §§ 101.133(d), 101.1005(b)(1).

¹⁴ *Request* at 6.

¹⁵ *Id.*

¹⁶ See Neptuno Media, Inc. Request for Waiver, filed to non-docketed ECFS INBOX-1.3 on July 13, 2021.

to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See **FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy**, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

- **During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.**

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Government Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Additional Information. For further information regarding this Public Notice, please contact Erin Fitzgerald at erin.fitzgerald@fcc.gov or (202) 418-7326.

- FCC -