

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Expanding Flexible Use of the 12.2-12.7 GHz Band)	WT Docket No. 20-443
)	
Expanding Flexible Use in Mid-Band Spectrum Between 3.7-24 GHz)	GN Docket No. 17-183
)	

ORDER

Extended Reply Comment Date: July 7, 2021

Adopted: June 3, 2021

Released: June 3, 2021

By the Acting Chief, Wireless Telecommunications Bureau:

1. On January 15, 2021, the Commission released a Notice of Proposed Rulemaking (*NPRM*) seeking input on the feasibility of allowing flexible-use services in the 12.2-12.7 GHz band (12 GHz band) while protecting incumbents from harmful interference.¹ In response to a motion filed by CCIA, et al. for an extension of time to file comments and replies to the *NPRM*,² the Bureau released an Order on March 29, 2021, allowing an additional 30 days to file comments and replies (*Extension Order*).³ The Bureau agreed with the parties that a 30-day extension was “warranted to provide commenters with additional time to prepare comments and reply comments that fully respond to the complex economic, engineering, and policy issues raised in the *NPRM*.”⁴ The Bureau, however, declined two requests by SpaceX Holdings, LLC (“SpaceX”), WorldVu Satellites Limited (“OneWeb”), Kepler Communications, Intelsat License LLC, and SES S.A. (the “12 GHz Alliance”) to indefinitely suspend the initial comment deadline until RS Access, LLC (RS Access) provided certain technical analyses.⁵

2. On May 24, 2021, the 12 GHz Alliance filed the instant request for a 30-day extension of

¹ See *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, Notice of Proposed Rulemaking, 36 FCC Rcd 606 (2021) (*NPRM*). The comment and reply comment deadlines were set at 30 and 60 days after publication in the Federal Register. Publication occurred on March 8, 2021, which made the original deadlines April 7, 2021, and May 7, 2021, respectively. See Federal Communications Commission, *Expanding Flexible Use of the 12.2-12.7 GHz Band*, 86 Fed. Reg. 13266 (Mar. 8, 2021).

² See Motion of Computer & Communications Industry Association (CCIA), INCOMPAS, Open Technology Institute at New America, and Public Knowledge for Extension of Time, WT Docket No. 20-443, et al. (filed Mar. 19, 2021).

³ See *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, et al., Order, DA 21-370 (WTB Mar. 29, 2021) (*Extension Order*) (extending deadlines for comments and reply comments to May 7, 2021, and June 7, 2021, respectively).

⁴ *Extension Order* at para. 3.

⁵ See *Extension Order* at n.6 (citing Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al. to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 23, 2021)); *Expanding Flexible Use of the 12.2-12.7 GHz Band, et al.*, WT Docket No. 20-443, et al., Order, DA 21-519 (WTB May. 4, 2021) (*Further Extension Denial Order*) (denying further extension requested by 12 GHz Alliance in Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al. to Marlene H. Dortch, Secretary, FCC (Apr. 26, 2021)).

the Reply Comment deadline of June 7, 2021.⁶ The 12 GHz Alliance seeks additional time to adequately review and respond to “voluminous—nearly 300 pages in comments and exhibits between just [RS Access, LLC and DISH Network Corporation].”⁷ In response, the 5Gfor12GHz Coalition opposes the instant Reply Extension Request on various grounds.⁸ The 5Gfor12GHz Coalition argues that the complex and voluminous nature of the comments do not form the basis for an extension beyond the normal comment and reply schedule expected of routine technical proceedings that involve complex filings.⁹ Furthermore, the 5Gfor12GHz Coalition assert that the previously granted extension of the comment deadline by the Commission in this proceeding provided ample additional time for stakeholders to prepare and submit the necessary technical and economic analyses, and that any further delay will hamper 5G deployment in this band to US consumers.¹⁰

3. We grant the Reply Extension Request filed by the 12 GHz Alliance. As set forth in Section 1.46 of the Commission’s rules,¹¹ the Commission does not routinely grant extensions of time for filing comments in rulemaking proceedings. Nevertheless, we previously found good cause for granting a 30-day extension of the original comment period to provide commenters with additional time to prepare initial comments addressing the complex economic, engineering, and policy issues raised in the *NPRM*. We now find that a 30-day extension of the reply comment period—until July 7, 2021—is justified for the same reasons, in order to give parties ample time to respond to the complex economic, engineering, and policy issues raised in the initial comments to the *NPRM*.¹² We note that the precedent for denying the Reply Extension Request cited by the 5Gfor12GHz Coalition is unpersuasive in this case.¹³

⁶ Motion of Space Exploration Holdings, LLC, WorldVu Satellites Limited, Kepler Communications, Intelsat License LLC, and SES S.A. (12 GHz Alliance) for Extension of Time, WT Docket No. 20-443, et al., (filed May 24, 2021) (Reply Extension Request).

⁷ Reply Extension Request at 3.

⁸ See Opposition of 5Gfor12GHz Coalition to Motion for Extension of Time to File Reply Comments, WT Docket No. 20-443, et al., (filed May 27, 2021) (5Gfor12GHz Coalition Opposition). The 5Gfor12GHz Coalition’s members include INCOMPAS, Public Knowledge, DISH Network, Computer & Communications Industry Association (CCIA), RS Access, Open Technology Institute at New America, Federated Wireless, AtLink, Cambridge Broadband Networks Group Ltd. (CBNG), Center for Education Innovations (CEI), Center for Rural Strategies, Etheric Networks, GeoLinks, Go Long Wireless, Granite Telecommunications, mmWave Tech, MVD Number 53 Partners, Resound Networks, Rise Broadband, Rural Wireless Association (RWA), Tel Net Worldwide, Tilson, VMware, WeLink, White Cloud Technologies, Xiber and X-Lab. 5Gfor12GHz Coalition Opposition at 1, n.1. Public Knowledge, Federated Wireless, MVD Number 53 Partners, and Center for Rural Strategies abstained from this opposition. *Id.*

⁹ See 5Gfor12GHz Coalition Opposition at 2 (citing Amendment of Rules Governing Ultra-Wideband Devices and Systems, Order Denying Extension of Time to File Comments and Reply Comment, 34 FCC Rcd. 7176, 7177 ¶ 3 (2019) (denying request to extend comment and reply deadlines in response to a petition for rulemaking) (*Ultra-Wideband Extension Denial*).

¹⁰ See 5Gfor12GHz Coalition Opposition at 4.

¹¹ 47 CFR § 1.46.

¹² In making this finding, we give no credit to the 12 GHz Alliance’s suggestion that the studies that RS Access and DISH submitted with their timely-filed comments were somehow “belated submissions . . . to limit other interested parties’ ability to review and [reply].” Reply Extension Request at 3. See generally 5Gfor12GHz Coalition Opposition at 3, Letter from Trey Hanbury, Counsel to RS Access, LLC, to Marlene H. Dortch, Secretary, FCC, at 2 (“The notion that timely receipt of a party’s initial comments in a Commission rulemaking proceeding precludes other parties’ meaningful participation in that proceeding defies logical explanation.”) (Apr. 28, 2021).

¹³ The *Ultra-Wideband Extension Denial* cited by the 5Gfor12GHz Coalition, see *supra* note 9, involved a decision declining to extend both the original comment and reply comment deadlines in response to a public notice for a petition for rulemaking—a step preliminary to initiation of a rulemaking proceeding. By comparison, the pleading

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4. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 0.131, 0.331, and 1.46 of the Commission's rules, 47 CFR §§ 0.131, 0.331, and 1.46, the Motion for Extension of Time filed by SpaceX Holdings, LLC, WorldVu Satellites Limited, Kepler Communications, Intelsat License LLC, and SES S.A., **IS GRANTED**.

5. **IT IS FURTHER ORDERED** that the deadline to file reply comments in this proceeding **IS EXTENDED** to July 7, 2021.

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt
Acting Chief, Wireless Telecommunications Bureau

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cycle in the instant proceeding is in response to the *NPRM*, and the Bureau previously found a 30-day extension of the original comment deadline was justified in this case.