

# Communications Daily

## Pai, Wi-Fi Proponents Say Rejection of Stay Important to Keep 6 GHz Moving Forward

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by Howard Buskirk

The U.S. Court of Appeals for the D.C. Circuit denied a stay of the FCC's April order allowing Wi-Fi and other unlicensed users to share the 6 GHz band. APCO sought the stay, with the support of electric utilities (see 2009180044). Wi-Fi proponents said the Thursday decision is important in that the court considers the merits of a challenge in deciding whether to grant a stay. The court also declined a request for an expedited hearing. Wi-Fi industry officials said the first devices are likely this year, with rollout accelerating into 2021.

“APCO will continue to fully prosecute its appeal of the FCC's 6 GHz order and remain highly vigilant of any harm caused by new unlicensed use of this band to mission critical public safety microwave operations,” said Executive Director-CEO Derek Poarch. “We are disappointed,” emailed Utilities Technology Council President Sheryl Riggs: “The FCC's order threatens to cause harmful interference to mission-critical communications in the 6 GHz band used by utilities, public safety and other vital users.”

“Great news for consumers, who stand to benefit from super-fast ... services in the home and on the go,” [tweeted](#) FCC Chairman Ajit Pai. Opening up the 6 GHz band for Wi-Fi 6 will enable “consumers to benefit from faster, innovative unlicensed applications and services,” an FCC spokesperson said.

A court looks at “the likelihood of success on the merits of the underlying appeal,” Mary Brown, Cisco senior director-technology and spectrum policy, told us. “From a proponent’s point of view, this is good news that the court looked at that criteria and decided to deny the stay. It doesn’t predict the final outcome, but it tells you the way things are going.”

The FCC has to release the final testing requirement for devices in the band, but hopes are it will be released this month, Brown said. “In the meantime, product is being developed,” she said. “You can’t set a hard deadline until you know what the test is and you know that your labs have everything required.” The FCC didn’t comment on the testing rules.

Wi-Fi 6 and next-generation Wi-Fi 7 “rely on access to the 6 GHz band to deliver next-generation digitally immersive experiences,” said Chris Szymanski, Broadcom director-product marketing and government affairs. The ruling “brings Americans one step closer to experiencing augmented and virtual reality in their everyday lives,” he said.

**The stay is good news for everyone depending on Wi-Fi because it will mean better throughput, especially if the FCC adopts the somewhat higher power levels being considered for indoor-only use, said Michael Calabrese, director of the Wireless Future Program at New America. “A stay was always very unlikely because it requires a court to find a likelihood that the party opposing the FCC will prevail on the merits,” Calabrese said: “The commission should have little concern about the ultimate outcome of the litigation. Federal courts have rarely, if ever, second-guessed the FCC’s technical expertise ... [here] the FCC examined a dozen dueling engineering studies and explained at great length why it concluded that low-power indoor use poses no undue risk of harmful interference.”**

“In the midst of the national COVID-19 crisis when many Americans are relying on low-cost Wi-Fi for bandwidth intensive work, school, medicine and other accommodations, the FCC’s 6 GHz rules are critical ... while at the same time protecting public safety and utility operations,” the Wi-Fi Alliance [said](#).

In the order, the D.C. Circuit asked parties to propose a briefing schedule within 30 days. “The parties are strongly urged to submit a joint proposal and are reminded that the court looks with extreme disfavor on repetitious submissions,” the court [said](#) in docket 20-1190 (in Pacer).