

Exhibit 4
to
Application for use of the ACTS Spacecraft

Scope of Control over the Transmitters Included in this Application

The ACTS spacecraft is used jointly by both NASA and OCACT. The license being requested in this application covers the non-NASA use of ACTS. The Space Act Agreement¹ between NASA, the Ohio Board of Regents, and Ohio University, establishes that Ohio University controls such usage in Article 3 of the agreement². In addition, the agreement also requires Ohio University to obey any and all cease and desist orders including any such orders issued by the FCC³.

We further maintain that the structure of the consortium as established in the Consortium Agreement⁴ leaves the direct control of all transmitters with Ohio University, in its function as the Managing Member of the consortium. While the OCACT Council approves the annual technical usage plan, the Managing Member maintains the satellite time schedule⁵. Furthermore, Ohio University as the Managing Member retains the right to terminate the Space Act Agreement, thereby halting all transmitter operations under OCACT control, even without the consent of the Consortium Council⁶.

Ohio University understands that the membership of any agency of the Federal Government may give rise to the impression that this member could fall outside the jurisdiction of the license being requested in this application. Based on our statements above, we maintain that Ohio University retains full control over all transmitters covered by this license by virtue of its position as Managing Member, and that the membership of a Federal Agency in the consortium would therefore not impact the FCC's jurisdiction over these transmitters. We are willing, as a condition on this license, to require any Federal Agency with voting rights in OCACT to execute the following amendment to the Consortium Agreement:

“The undersigned, being an agency of the Federal Government, acknowledges that the use of ACTS and other OCACT-controlled transmitters is governed by one or more FCC licenses. The undersigned agrees to abstain from any Consortium Council votes called in regard to compliance with the provisions and restrictions of such licenses, and recognizes the right of the FCC to issue cease and desist operations orders to the consortium..”

¹ Exhibit 2 to this application

² Article 3, section B.3 requires that Ohio University develop the payload schedule, while article 3, section B.5 requires that Ohio University become proficient in the operation of the ACTS payload, and “minimize NASA's involvement”.

³ Space Act Agreement, Appendix A, Item 4.

⁴ Exhibit 3 to this application

⁵ Consortium Agreement, Section 6.

⁶ Consortium Agreement, Section 11.