

December 26, 2006

VIA ELECTRONIC FILING

Mr. Jim Burtle
Chief, Experimental Licensing Branch
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: The Boeing Company, Renewal Application, Call Sign WC9XLV, File No. 0714-EX-PL-2006 (current File No. 0524-EX-ST-2006) - Request for Expedited Treatment and Limited Waiver

Dear Mr. Burtle:

The Boeing Company ("Boeing") hereby requests expedited consideration of its application for experimental radio construction permit and license, File No. 0714-EX-PL-2006 (current Call Sign WC9XLV, File No. 0524-EX-ST-2006). In addition, to the extent necessary, Boeing requests a limited waiver of Section 5.61(b) of the Commission's Rules, 47 C.F.R. § 5.61(b), to permit continued operation of its authorized experimental stations during the pendency of this application.

As the Commission is aware, Boeing has decided to cease commercial operation of its Aeronautical Mobile-Satellite Service ("AMSS") system by the end of 2006. However, service to U.S. Government users pursuant to government contract will continue beyond that time frame. Indeed, Boeing is in the process of finalizing a contract extension that covers service to the U.S. Government through late 2008. Throughout the contract negotiations, it was understood that responsibility for regulatory approvals and related authorizations covering future service would rest with the U.S. Government. Recently, however, Boeing was informed that it should obtain regulatory approvals to cover AMSS and related operations through the term of the contract extension.

Pursuant to those instructions, Boeing has submitted an AMSS experimental renewal application to facilitate continued service to U.S. Government users pursuant to government contract. See Call Sign WC2XVE, File No. 0254-EX-RR-2006 (current File No. 0153-EX-RR-2005). This experimental earth station application will permit related transponder testing necessary to support ongoing service as the Boeing AMSS system evolves to U.S. Government service only.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

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Given the foregoing circumstances, expedited consideration is warranted to preserve critical communications services for U.S. Government users. Similarly, these considerations warrant grant of a limited waiver of Section 5.61(b) of the Rules, to the extent necessary, to afford ongoing authority to operate despite filing this application less than 15 days prior to expiration of the underlying STA. Boeing understands pursuant to discussions with the Commission staff, however, that it will be accorded ongoing authority during the pendency of its application.

Generally, a waiver can be granted where good cause is shown.^{1/} In particular, a waiver is appropriate if (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation would better serve the public interest than would strict adherence to the general rule.^{2/} The Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule, and would otherwise serve the public interest.^{3/}

In this case, uncertainty and recent developments with respect to the appropriate regulatory approach to authorize ongoing service to U.S. Government users strongly support consideration of Boeing's renewal application. Furthermore, given the unique circumstances of this case, there would no prejudice associated with consideration of the application and the objectives of the Commission's rules would not be undermined. Ultimately, the public interest would be best served by ensuring that essential communications services remain available to U.S. Government users pursuant to Commission authority.

Please contact the undersigned with any questions regarding this submission.

Sincerely,

/s/

Carlos M. Nalda
Counsel to The Boeing Company

^{1/} 47 C.F.R. § 1.3. *See also* *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) ("*WAIT Radio*"); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

^{2/} *See* *Northeast Cellular*, 897 F.2d at 1166. Circumstances that would justify a waiver include "considerations of hardship, equity, or more effective implementation of overall policy." *WAIT Radio*, 418 F.2d at 1159. *See also* *Onsat Petition for Waiver to Permit Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band*, *Order*, 15 FCC Rcd 24488, 24490 ¶ 5 (2000).

^{3/} *See* *WAIT Radio*, 418 F.2d at 1157 ("an agency may discharge its responsibilities by promulgating rules of general application which, in the overall perspective, establish the 'public interest' for a broad range of situations, [however, this] does not relieve it of an obligation to seek out the 'public interest' in particular, individualized cases.").