

MSV does not provide a valid basis for the Bureau to “clarify” or reconsider its determination that MSV-1 must comply with Section 25.210(j) absent grant of a waiver. MSV-1 will use feeder link spectrum set aside for fixed-satellite services and can therefore legitimately be considered subject to Section 25.210(j). Exempting spacecraft like MSV-1 from the rule would undermine one of the purposes of the stationkeeping requirement, which is to prevent harmful interference among adjacent satellites using FSS frequencies.

The Bureau’s action with respect to MSV-1 was also consistent with its previous decisions regarding requests for authority to operate MSS and DARS satellites with a +/- 0.1 degree East/West stationkeeping tolerance.² MSV provides no reason for the Bureau to depart from that precedent here.

Thus, the Bureau properly treated MSV’s request to operate MSV-1 with a +/- 0.1 degree East/West stationkeeping tolerance as requiring a waiver of the Commission’s rules and properly denied that waiver. If MSV wishes to pursue a greater stationkeeping tolerance for MSV-1, it must submit a new application for modification of its license and provide an adequate justification for waiver of Section 25.210(j).

If MSV seeks such a modification, and the Commission finds sufficient justification is provided for consideration of a waiver, the application should, at a minimum, be considered under the framework established in the recent *SN-4 Modification Order*.³ In that decision, SES Americom was authorized to operate its Satcom SN-4 spacecraft with a +/- 0.1 degree East/West

² See *XM Radio Inc.*, Order and Authorization, DA 05-180 (Sat. Div. rel. Jan. 26, 2005) at ¶¶ 27-29 (denying XM request for waiver of Section 25.210(j) without prejudice to re-filing if XM can show that greater stationkeeping tolerance would not adversely affect operations of nearby satellites); *Mobile Satellite Ventures Subsidiary LLC*, Order and Authorization, DA 05-50 (Int’l Bur. rel. Jan 10, 2005) at ¶¶ 11-13 (denying request for waiver of Section 25.210(j) for MSV-2).¶

³ *SES Americom, Inc.*, Order and Authorization, DA 05-1812 (Sat. Div. rel. June 28, 2005) (“*SN-4 Modification Order*”).

stationkeeping tolerance for the remainder of its license term. The Satellite Division waived Section 25.210(j) based on SES Americom's demonstration that the increased stationkeeping box would not cause harmful interference to adjacent operators or result in an overlap between the SN-4 stationkeeping volume and that of any other satellite. *SN-4 Modification Order* at ¶ 14. However, the authority was subject to the condition that if a spacecraft is launched or relocated into a nearby position such that its stationkeeping volume would overlap with that of SN-4, SES Americom must resume stationkeeping with a +/- 0.05 degree East/West tolerance or coordinate the larger stationkeeping box with the new operator. *Id.* Further, although a relaxation of the +/- 0.05 degree stationkeeping requirement under this framework can be authorized in specific circumstances, it should be seen as the exception and not as the rule..

This condition on the SN-4 modification ensures that the waiver of the stationkeeping rule does not prejudice future compliant operations. If MSV seeks and is granted a waiver of Section 25.210(j) for MSV-1, its operations should, at a minimum, be subject to the same condition to protect both existing and future spacecraft assigned to 101° W.L.

For the foregoing reasons, MSV's Petition should be denied.

Respectfully submitted,

PANAMSAT CORPORATION

SES AMERICOM, INC.

By: /s/ Kalpak Gude

By: /s/ Nancy J. Eskenazi

Kalpak Gude
Vice President &
Associate General Counsel
PANAMSAT CORPORATION
1801 K Street, N.W., Suite 440
Washington, D.C. 20006

Nancy J. Eskenazi
Vice President &
Associate General Counsel
SES AMERICOM, Inc.
Four Research Way
Princeton, NJ 08540

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CERTIFICATE OF SERVICE

I, Kim Baum, hereby certify that on this 7th day of July, 2005, a copy of the above Opposition to Petition for Clarification or Partial Reconsideration was sent by first class mail, postage prepaid, to the following:

Ms. Jennifer Manner
VP Regulatory Affairs
Mobile Satellite Ventures LP
10802 Park Ridge Blvd
Reston, VA 20191

Mr. Bruce D. Jacobs
Mr. David S. Konczal
Pillsbury Winthrop Shaw Pittman LLC
2300 N Street, NW
Washington, DC 20037

 /s/ Kim Baum

Kim Baum