

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of Amendment of)
)
COLUMBIA COMMUNICATIONS CORP.)
)
To Pending Modification Application)
Regarding Technical Characteristics of the)
AMC-12 C-Band Replacement Satellite)

File No. SAT-AMD-20040826-00161

Federal Communications Commission
Office of Secretary

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Policy Branch
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REPLY COMMENTS OF COLUMBIA COMMUNICATIONS CORPORATION

Columbia Communications Corporation ("Columbia"), by its attorneys, hereby submits its Reply to the Comments of New Skies Satellites N.V. ("New Skies") regarding Columbia's above-captioned Amendment relating to the technical characteristics of AMC-12, a C-band replacement satellite that will operate at 37.5° W.L. and is scheduled for launch in less than two months, on December 20.

INTRODUCTION

In its brief comments, New Skies requests atypical and unnecessary restrictions on AMC-12. New Skies expresses concern regarding coordination of the operation of AMC-12 with New Skies' C-band services on NSS-806 at 40.5° W.L., three degrees away from the AMC-12 orbital assignment. However, New Skies makes no showing to suggest that coordination will be difficult in this case.

Columbia has committed to coordinate with New Skies, and initial discussions between the parties have already taken place. The design for AMC-12 complies fully with the Commission's operational requirements for spacecraft at two-degree

spacing. Indeed, Columbia is confident that coordination is possible even though NSS-806 is not two-degree compliant and New Skies' right to use that satellite to serve the United States is conditioned on its not interfering with the compliant AMC-12.

In these circumstances, the Commission should reject New Skies' unusual request for coordination-based conditions on AMC-12 here. Columbia is committed to negotiate coordination in good faith, and we assume New Skies will do the same. Accordingly, consistent with its long-standing precedent, the Commission should leave coordination up to the parties and expeditiously grant the AMC-12 application as amended without unnecessary conditions.

BACKGROUND

The instant amendment provides updated information concerning the technical characteristics of AMC-12. Specifically, the amendment reflects the fact that the EIRP levels for the spacecraft, as measured by the manufacturer, are higher than what had been expected.¹ Columbia demonstrated in its filing that even with the higher EIRP levels, AMC-12 was compatible with the operation of neighboring spacecraft, including the NSS-806. *Id.*, Narrative at 2-8. In addition to the analysis showing that Columbia would not cause harmful interference to adjacent satellites, which are spaced three degrees away, Columbia also provided a theoretical analysis showing its ability to operate in a two-degree spacing environment. *Id.*

¹ See Amendment, File No. SAT-AMD-20040826-00161, Narrative at 1.

Furthermore, Columbia expressly committed to coordinate operations of AMC-12 with adjacent satellites and to operate in accordance with coordination agreements developed with other operators. Columbia noted that it already had a coordination agreement in place with New Skies. *Id.*, Narrative at 2. Columbia also observed that there were a number of factors that would facilitate coordination of AMC-12, including increased use of digital signals and the operation of earth stations with AMC-12 that comply with established Commission performance standards (29-25 log Θ). *Id.*

New Skies operates NSS-806 at 40.5° W.L., and is authorized to provide services to the U.S. from that spacecraft on a conditional basis. In particular, when the Commission authorized NSS-806 to provide U.S. services, it noted that the spacecraft did not comply with Commission technical standards for operation in a two-degree spacing environment.² The Commission required New Skies to coordinate in good faith with respect to future two-degree compliant spacecraft in adjacent orbital positions, and to operate on a non-interference basis with respect to such compliant spacecraft if a coordination agreement could not be reached.³ The Commission stated that:

We will not permit New Skies's satellite network operations to interfere with U.S. services being provided by any authorized system that is two-

² See *New Skies Satellites N.V.*, 14 FCC Rcd 13003, 13037-38 (1999) ("*New Skies Temporary Market Access Order*"). See also *New Skies Satellites N.V.*, 16 FCC Rcd 6740, 6746-47 (Sat. & Radiocomm. Div. 2001) ("*New Skies Permanent Market Access Order*").

³ *New Skies Temporary Market Access Order*, 14 FCC Rcd at 13038.

degree spacing compliant, nor can New Skies claim protection against interference to its operations caused by U.S. services being provided by the two-degree compliant satellites. *Id.*

In 2001 SES Americom (Columbia's parent) and New Skies entered into a coordination agreement regarding operations at the 37.5° W.L. and 40.5° W.L. locations. The U.S. and Netherlands administrations subsequently met in 2003 to review the status of coordination between New Skies and U.S.-licensed operators. During that meeting, New Skies and SES Americom each recognized that there may be a need to accommodate operations at higher power density levels than were specified in the 2001 agreement. The parties committed to have additional meetings to develop procedures for managing these cases.⁴ In furtherance of that commitment, New Skies and SES Americom had a coordination meeting last week in the Netherlands.

DISCUSSION

The Commission should reject New Skies' request for the imposition of special conditions regarding coordination of AMC-12 because there are no unusual circumstances that would warrant such action. Instead, the introduction of AMC-12 represents the typical situation that arises when a new replacement satellite will be adjacent to an older generation spacecraft. Columbia is committed to meeting its obligations in the coordination process. New Skies' comments should not delay

⁴ Satellite Coordination between New Skies Satellites and SES Americom, Nov. 6, 2003 at 5.

prompt Commission action on the AMC-12 application to permit launch as scheduled in December.

The Commission has made clear that absent insurmountable coordination problems, the Commission leaves coordination issues to be resolved by the parties:

[W]e have repeatedly stated that we expect licensees to bear the responsibility of coordinating adjacent satellites pursuant to the two-degree orbital spacing requirement because they are in the best position to determine the technical and economic tradeoffs inherent in reaching a coordination agreement.⁵

That is exactly the course that is appropriate in this instance. New Skies' comments do not even acknowledge this long-standing Commission policy, much less attempt to provide any justification for the Commission to depart from it here.

When a next-generation spacecraft is introduced adjacent to an older satellite, transition issues always arise. However, there is no reason to think that the parties will be unable to resolve these issues here. Under the conditions of its U.S. market access, New Skies is required to coordinate in good faith with licensees of adjacent spacecraft that are two-degree compliant. We assume that New Skies will act in accordance with its obligations and will negotiate in good faith with Columbia to accommodate the introduction of AMC-12, and that work is ongoing.

⁵ *GE American Communications, Inc.*, 15 FCC Rcd 19671 (Sat. & Radiocomm. Div. 2000), citing *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service*, 5 FCC Rcd 179, 183 (1990).

As noted above, that coordination process has already begun.

Columbia representatives met with New Skies personnel last week. The parties have agreed to exchange traffic information via e-mail by the end of next week, with a follow-up conference call to discuss that information scheduled for the following week. Another face-to-face meeting is then planned for December 1.

The coordination of AMC-12 and NSS-806 presents no unusual issues that would warrant special conditions on the AMC-12 authorization. New Skies' comments do not dispute the interference analysis provided with the Columbia Amendment showing compatibility with neighboring operations at three- or even two-degree spacing. Nor does New Skies present any technical analysis of its own.

New Skies' conclusory statements regarding the power levels on AMC-12 are misleading and overstate the coordination issues presented here. New Skies claims that Columbia is proposing to operate all the beams on AMC-12 at power levels that will result in Columbia exceeding the power densities prescribed in the current coordination agreement. New Skies Comments at 2. But this is simply incorrect.

The EIRP levels provided in the Amendment are descriptive of the capabilities of the spacecraft. As expressly noted in the Amendment, these levels, as measured by the manufacturer, turned out to be higher than what was anticipated at the design stage. However, the EIRP of a beam does not predetermine the power density of operations. The manner in which the transponder is used also must be taken into account. Thus, there is no basis for

New Skies' assumption that the higher EIRP described in the Amendment will necessarily result in power densities exceeding those specified in the parties' current coordination agreement, or in any reasonable modification of that agreement arising from the current negotiations.

Columbia and New Skies each can use a variety of traffic management and coordination techniques to facilitate compatible operations of their spacecraft. Given this flexibility, Columbia is confident that the parties can coordinate the operations of AMC-12 and NSS-806, and Columbia will continue to work diligently to fulfill its coordination obligations. We assume New Skies similarly will comply with the conditions governing its access to the U.S. market from its non-compliant spacecraft.

In short, the AMC-12 application as amended should be granted without delay. The coordination concerns raised by New Skies can be resolved by the parties and do not require the special relief that company has requested here.


CONCLUSION

Columbia urges the Commission to grant expeditiously the AMC-12 application as amended to permit Columbia to move forward with its proposal to enhance the service it provides at 37.5° W.L. Prompt grant is especially critical because launch of the spacecraft is now scheduled for mid-December, and Columbia needs final launch authority prior to that date.

Respectfully submitted,

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November 4, 2004

CERTIFICATE OF SERVICE

I, Cecelia Burnett, do hereby certify that on this 4th day of November, 2004, a copy of the foregoing "Reply Comments of Columbia Communications Corporation" was sent to the following party by first class mail:

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A handwritten signature in cursive script, reading "Cecelia M. Burnett", written over a horizontal line.

Cecelia M. Burnett