

File # SAT-AMD-20090331-00039
Call Sign S2756 Grant Date 07/01/09
(or other identifier) Term Dates

Approved by OMB
3060-0678

From _____ To: _____
Approved: Stephen J. Duall
Stephen J. Duall
Chief, Policy Branch



*subject to conditions

Date & Time Filed: Mar 31 2009 2:54:47:473PM
File Number: SAT-AMD-20090331-00039

FCC APPLICATION FOR SPACE AND EARTH STATION:MOD OR AMD - MAIN FORM
FCC Use Only
FCC 312 MAIN FORM FOR OFFICIAL USE ONLY

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
AMD - NSS-9 - minor frequency alteration

1-8. Legal Name of Applicant

Name:	New Skies Satellites B. V.	Phone Number:	202-478-7183
DBA Name:		Fax Number:	202-478-7101
Street:	2001 L Street, NW Suite 800	E-Mail:	
City:	Washington	State:	DC
Country:	USA	Zipcode:	20036
Attention:	Ms Joslyn Read		

Attachment
IBFS File No. SAT-LOI-20081223-00238; SAT-AMD-20090331-00039
Call Sign S2756
July 1, 2009

The petition for Declaratory Ruling filed by New Skies Satellites, B.V. (New Skies), IBFS File No. SAT-LOI-20081223-00238 as amended by SAT-AMD-20090331-00039, is GRANTED. Accordingly, New Skies is granted access to the U.S. market to provide Fixed-Satellite Service via the NSS-9 space station (Call Sign S2756), licensed by the Netherlands, at the 177° W.L. orbital location using the extended C-band frequencies of 3625-3700 MHz (space-to-Earth) and 5850-5925 MHz (Earth-to-space). These operations must be in accordance with the terms, conditions and technical specifications set forth in New Skies' Petition for Declaratory Ruling, the Commission's rules not waived herein, and the following conditions.

1. NSS-9 is not authorized to provide any Direct-to-Home (DTH) service, Direct Broadcast Satellite (DBS) service, or Digital Audio Radio Service (DARS) to, from, or within the United States.
2. Communications between U.S.-licensed earth stations and the NSS-9 space station shall be in compliance with all existing and future space station coordination agreements reached between the Netherlands and other administrations.
3. Earth station operators seeking to access NSS-9 to provide extended C-band services may do so only after obtaining an earth station license that includes the NSS-9 space station using the extended C-band frequencies as an authorized point of communication, or after modifying an existing earth station license to add the NSS-9 space station using the extended C-band frequencies as an authorized point of communication.
4. Use of the 3625-3700 MHz frequency band shall comply with the terms of footnotes US245 and NG185 to the U.S. Table of Frequency Allocations, 47 C.F.R. § 2.106, US245, NG185, and Section 2.108 of the Commission's rules, 47 C.F.R. § 2.108, which limit the use of these frequencies to international, intercontinental satellite systems, subject to case-by-case electromagnetic compatibility analysis with all users of the band.
5. Use of the 5850-5925 MHz frequency band shall comply with the terms of Footnote US245 to the U.S. Table of Frequency Allocations, 47 C.F.R. § 2.106, US245, and Section 2.108 of the Commission's rules, 47 C.F.R. § 2.108, which limit the use of these frequencies to international, intercontinental satellite systems, subject to case-by-case electromagnetic compatibility analysis with all users of the band.
6. New Skies' request for waiver of Section 25.210(a)(1) of the Commission's rules, 47 C.F.R. 25.210(a)(1) is GRANTED as conditioned. Section 25.210(a)(1) requires that C-band operations use orthogonal linear polarization. New Skies employs circular polarization. This waiver grant is based upon findings that there is currently no potential for harmful interference from operations at this location with circular polarization, and that there would be an undue hardship to customers if they were required to reconfigure existing circularly-polarized antennas to operate with linear polarization. As a condition of this waiver, New Skies must accommodate future space station networks that are compliant with Section 25.210(a)(1). Further, New Skies

must operate NSS-9 pursuant to any existing or future coordination agreements for this location.

7. New Skies' request for waiver of Section 25.210(a)(3) of the Commission's rules, 47 C.F.R. 25.210(a)(3) is GRANTED as conditioned. Section 25.210(a)(3) requires FSS space stations using the C-band to be capable of switching polarization sense upon ground command. The Commission requires polarity-switching capability for two reasons: 1) to provide U.S.-licensed space stations with the flexibility to operate at different orbital locations, and (2) to mitigate potential interference between adjacent fixed space station systems transmitting analog television signals. Telesat Canada; Petition for Declaratory Ruling for of Inclusion of ANIK F3 on the Permitted Space Station List, *Order*, 22 FCC Rcd 588 (para. 10) (Int'l Bur., Sat. Div. 2007). This waiver grant is based upon a finding that the ability to switch polarization is not currently necessary to protect other space stations at adjacent orbital locations from harmful interference, because the NSS-9 space station's operations will be in compliance with existing coordination agreements. As a condition of granting this waiver, New Skies must accommodate future space station networks that are compliant with Section 25.210(a)(3). Further, New Skies must operate NSS-9 pursuant to any existing or future coordination agreements for this location.

8. New Skies' request for waiver of Section 25.211(a) of the Commission's rules, 47 C.F.R. 25.211(a), IS GRANTED. Section 25.211(a) provides that downlink analog video transmissions in the C-band shall be transmitted only on a center frequency of $3700+20N$ MHz, where $N=1$ to 24, with corresponding uplink frequencies 2225 MHz higher. This waiver grant is based upon findings that New Skies designed the NSS-9 space station using the same analog TV center frequencies traditionally used by Intelsat space stations and legacy customers now using New Skies' space stations, that existing analog video operations at the 177° W.L. orbital location are fully coordinated and will not cause interference to adjacent space station operators, and that NSS-9 will, over time, shift to digital transmissions that are not subject to this rule. We grant this waiver on the condition that New Skies must accommodate future space station networks serving the United States that are compliant with Section 25.210(a)(3). Further, New Skies must operate NSS-9 pursuant to any existing or future coordination agreements for this location.

9. With respect to the waivers granted above, in the absence of a continuing operator-to-operator coordination agreement, operations of NSS-9 at the 177° W.L. orbital location in the 3625-3700 MHz and 5850-5925 MHz bands will be on a non-harmful interference basis (*i.e.*, New Skies shall not cause harmful interference to, and shall not claim protection from interference caused to it by, any other lawfully operating radiocommunication system) until a future operator-to-operator agreement is concluded.

10. This action is taken pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective immediately. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the public notice indicating that this action was taken.



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Stephen J. Duall
Chief, Policy Branch

9-16. Name of Contact Representative

Name: William M. Wiltshire **Phone Number:** 202-730-1350
Company: Harris, Wiltshire & Grannis LLP **Fax Number:** 202-730-1301
Street: 1200 18th Street **E-Mail:** wwiltshire@harriswiltshire.com
City: Washington **State:** DC
Country: USA **Zipcode:** 20036-
Attention: William M. Wiltshire **Relationship:** Legal Counsel

CLASSIFICATION OF FILING

17. Choose the button next to the classification that applies to this filing for both questions a. and b. Choose only one for 17a and only one for 17b.

- a1. Earth Station
- a2. Space Station

- (N/A) b1. Application for License of New Station
- (N/A) b2. Application for Registration of New Domestic Receive-Only Station
- b3. Amendment to a Pending Application
- b4. Modification of License or Registration
- b5. Assignment of License or Registration
- b6. Transfer of Control of License or Registration
- b7. Notification of Minor Modification
- (N/A) b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite
- (N/A) b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- (N/A) b10. Other (Please specify)
- (N/A) b11. Application for Earth Station to Access a Non-U.S. satellite Not Currently Authorized to Provide the Proposed Service in the Proposed Frequencies in the United States
- (N/A) b12. Application for Database Entry
- b13. Amendment to a Pending Database Entry Application
- b14. Modification of Database Entry

<p>17c. Is a fee submitted with this application? <input checked="" type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114). <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee <input checked="" type="radio"/> Other (please explain): Amendments to LOI applications are not covered by the fee schedule</p>	
<p>17d. Fee Classification CWY – Space Station Amendment (Geostationary)</p>	
<p>18. If this filing is in reference to an existing station, enter: (a) Call sign of station: S2756</p>	<p>19. If this filing is an amendment to a pending application enter both fields, if this filing is a modification please enter only the file number: (a) Date pending application was filed: 12/23/2008 (b) File number: SATLOI2008122300238</p>

TYPE OF SERVICE

20. NATURE OF SERVICE: This filing is for an authorization to provide or use the following type(s) of service(s): Select all that apply:

- a. Fixed Satellite
- b. Mobile Satellite
- c. Radiodetermination Satellite
- d. Earth Exploration Satellite
- e. Direct to Home Fixed Satellite
- f. Digital Audio Radio Service
- g. Other (please specify)

21. STATUS: Choose the button next to the applicable status. Choose only one.

Common Carrier Non-Common Carrier

22. If earth station applicant, check all that apply.

- Using U.S. licensed satellites
- Using Non-U.S. licensed satellites

23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Choose one. Are these facilities:

Connected to a Public Switched Network Not connected to a Public Switched Network N/A

24. FREQUENCY BAND(S): Place an 'X' in the box(es) next to all applicable frequency band(s).

a. C-Band (4/6 GHz) b. Ku-Band (12/14 GHz)

c. Other (Please specify upper and lower frequencies in MHz.)

Frequency Lower: 3625 Frequency Upper: 5925 (Please specify additional frequencies in an attachment)

TYPE OF STATION

25. CLASS OF STATION: Choose the button next to the class of station that applies. Choose only one.

- a. Fixed Earth Station
- b. Temporary-Fixed Earth Station
- c. 12/14 GHz VSAT Network
- d. Mobile Earth Station
- e. Geostationary Space Station
- f. Non-Geostationary Space Station
- g. Other (please specify)

26. TYPE OF EARTH STATION FACILITY:

- Transmit/Receive
- Transmit-Only
- Receive-Only
- N/A

"For Space Station applications, select N/A."

PURPOSE OF MODIFICATION

27. The purpose of this proposed modification is to: (Place an 'X' in the box(es) next to all that apply.)

- a --- authorization to add new emission designator and related service
- b --- authorization to change emission designator and related service
- c --- authorization to increase EIRP and EIRP density
- d --- authorization to replace antenna
- e --- authorization to add antenna
- f --- authorization to relocate fixed station
- g --- authorization to change frequency(ies)
- h --- authorization to add frequency
- i --- authorization to add Points of Communication (satellites & countries)
- j --- authorization to change Points of Communication (satellites & countries)
- k --- authorization for facilities for which environmental assessment and radiation hazard reporting is required
- l --- authorization to change orbit location
- m --- authorization to perform fleet management
- n --- authorization to extend milestones
- o --- Other (Please specify)

ENVIRONMENTAL POLICY

<p>28. Would a Commission grant of any proposal in this application or amendment have a significant environmental impact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. 1.1308 and 1.1311, as an exhibit to this application. A Radiation Hazard Study must accompany all applications for new transmitting facilities, major modifications, or major amendments.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
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ALIEN OWNERSHIP Earth station applicants not proposing to provide broadcast, common carrier, aeronautical en route or aeronautical fixed radio station services are not required to respond to Items 30-34.

<p>29. Is the applicant a foreign government or the representative of any foreign government?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
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<p>30. Is the applicant an alien or the representative of an alien?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
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<p>31. Is the applicant a corporation organized under the laws of any foreign government?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
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<p>32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
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<p>33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
<p>34. If any answer to questions 29, 30, 31, 32 and/or 33 is Yes, attach as an exhibit an identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vote.</p>	

BASIC QUALIFICATIONS

<p>35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules? If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>36. Has the applicant or any party to this application or amendment had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission? If Yes, attach as an exhibit, an explanation of circumstances.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>

<p>37. Has the applicant, or any party to this application or amendment, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes, attach as an exhibit, an explanation of circumstances.</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of circumstances</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>39. Is the applicant, or any person directly or indirectly controlling the applicant, currently a party in any pending matter referred to in the preceding two items? If yes, attach as an exhibit, an explanation of the circumstances.</p>	<p style="text-align: center;"> <input type="radio"/> Yes <input checked="" type="radio"/> No </p>
<p>40. If the applicant is a corporation and is applying for a space station license, attach as an exhibit the names, address, and citizenship of those stockholders owning a record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or class of beneficiaries. Also list the names and addresses of the officers and directors of the Filer.</p>	

<p>41. By checking Yes, the undersigned certifies, that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. See 47 CFR 1.2002(b) for the meaning of "party to the application"; party to the application; for these purposes.</p>	<p style="text-align: center;"> <input checked="" type="radio"/> Yes <input type="radio"/> No </p>
<p>42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? If Yes, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. 25.137, as appropriate. If No, proceed to question 43.</p>	<p style="text-align: center;"> <input checked="" type="radio"/> Yes <input type="radio"/> No </p>
<p>42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station? The Netherlands</p>	
<p>43. Description. (Summarize the nature of the application and the services to be provided). (If the complete description does not appear in this box, please go to the end of the form to view it in its entirety.)</p> <div style="border: 1px solid black; padding: 5px; min-height: 100px;"> <p style="text-align: center;">See Narrative Exhibit.</p> </div> <p style="text-align: center;">Narrative Exhibit</p>	

43a. Geographic Service Rule Certification

By selecting A, the undersigned certifies that the applicant is not subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25.

A

By selecting B, the undersigned certifies that the applicant is subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25 and will comply with such requirements.

B

By selecting C, the undersigned certifies that the applicant is subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25 and will not comply with such requirements because it is not feasible as a technical matter to do so, or that, while technically feasible, such services would require so many compromises in satellite design and operation as to make it economically unreasonable. A narrative description and technical analysis demonstrating this claim are attached.

C

CERTIFICATION

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

44. Applicant is a (an): (Choose the button next to applicable response.)

- Individual
- Unincorporated Association
- Partnership
- Corporation
- Governmental Entity
- Other (please specify)

45. Name of Person Signing
Thai E. Rubin

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46. Title of Person Signing
General Counsel

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND / OR IMPRISONMENT
(U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION
(U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

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