

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	File No. SAT-MOD-20111021-00207
ORBCOMM License Corp.)	File No. SAT-AMD-20130212-00020
)	
For Authority to Modify its Non-Voice, Non-Geostationary Satellite Service Space Segment License (S2103))	File No. SAT-AMD-20151223-_____
)	
)	

FINAL ORBCOMM GENERATION 2 LAUNCH CERTIFICATION & AMENDED FIFTH MILESTONE WAIVER OR MODIFICATION REQUEST

ORBCOMM License Corp. (“ORBCOMM”) is pleased to certify to the Commission that the final ORBCOMM Generation 2 (“OG2”) satellite launch of eleven OG2 spacecraft was successfully completed on December 21, 2015. All of the eleven new OG2 satellites were deployed into their proper target insertion orbit after release from their dedicated launch vehicle – a newly upgraded version of the SpaceX Falcon 9 rocket. ORBCOMM has established in-orbit telemetry connections with each of the new OG2 satellites. Successful solar panel deployment has been confirmed on all eleven spacecraft, and ORBCOMM has commenced pre-operational testing of the new satellites.

Accordingly, by this submission, ORBCOMM further amends the above-captioned application¹ to revise ORBCOMM’s pending request for waiver or modification of the fifth satellite performance milestone (*i.e.*, “Certify Entire System Operational”) relating to the 2008

¹ See, also, *In the Matter of Applications by ORBCOMM License Corp. For Authority to Modify its Non-Voice, Non-Geostationary Satellite System*, Order & Authorization, DA 08-633 (March 21, 2008), 23 FCC Rcd 4804 (2008) (the “2008 Space Segment License Modification Order”).

Space Segment License Modification Order (the “Fifth Milestone”).² Specifically, as discussed in more detail below, in the event that ORBCOMM’s pending request for full waiver of the Fifth Milestone is not granted, by this amendment, ORBCOMM requests a partial waiver permitting ORBCOMM’s above-stated certification of the successful final OG2 launch to constitute satisfaction of the Fifth Milestone. Alternatively, in the event that partial waiver is not granted, ORBCOMM respectfully requests that the Fifth Milestone deadline date be extended to June 30, 2016.

ORBCOMM’s Fifth Milestone Waiver or Modification Request seeks a full waiver of the Fifth Milestone.³ ORBCOMM’s pending full waiver request, which is incorporated herein by reference, sets forth a clear and compelling legal rationale for Commission grant of the requested relief. Approval of ORBCOMM’s request for a full waiver of the Fifth Milestone would be the result that most closely comports with the circumstances of the instant case, and the Commission’s Rules, public policy mandates, and administrative efficiency objectives.⁴ Grant of ORBCOMM’s pending full waiver request is further bolstered by the Commission’s newly adopted specific exemption of NGSO replacement satellites from performance bond and milestone requirements set forth in the 2015 Part 25 Revision Order.⁵ Accordingly, the public

² See, Modification Application Amendment, File No. 20130212-00020, Narrative Exhibit, at pp. 4-9 (February 12, 2013) (“Fifth Milestone Waiver or Modification Request”). See, also, 2008 Space Segment License Modification Order, at ¶ 23(d). ORBCOMM’s Fifth Milestone Waiver or Modification Request was placed on Public Notice, and is unopposed. See, *FCC Public Notice*, Report No. SAT-00933, released March 1, 2013.

³ Fifth Milestone Waiver or Modification Request, Narrative Exhibit, at pp. 4-9.

⁴ *Id.* See, also, *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, IB Docket No. 12-267, FCC 15-167 (Released December 17, 2015) (“2015 Part 25 Revision Order”), at ¶ 340, and Appendix B ¶ 32.

⁵ *Id.*

interest, convenience and necessity would be well-served by Commission grant of ORBCOMM's request for a full waiver of the Fifth Milestone.

If, however, ORBCOMM's request for full waiver of the Fifth Milestone is not granted by the Commission, ORBCOMM respectfully requests a partial waiver to permit ORBCOMM's above-stated certification of the successful in-orbit deployment of the final eleven OG2 satellites to constitute satisfaction of the Fifth Milestone.⁶ Given the facts in the instant case, and the performance bond and milestone exemption for NGSO replacement satellites recently adopted in the 2015 Part 25 Revision Order,⁷ there is good cause for grant of the requested partial waiver.

The OG2 satellites are specifically authorized as replenishment spacecraft to support and enhance the ongoing operations of the ORBCOMM Non-Voice Non-Geostationary mobile satellite service constellation (the "ORBCOMM System").⁸ The ORBCOMM System commenced commercial operation in 1995, following the launch of the first two ORBCOMM satellites on April 3, 1995,⁹ and has remained in continuous operational status for more than twenty years. The ORBCOMM System has and continues to make full use of its authorized spectrum and orbital resources to provide worldwide coverage and service availability.

⁶ Upon grant of the requested partial waiver, ORBCOMM also requests that the Commission allow ORBCOMM to cancel its remaining \$1 million performance bond associated with the 2008 Space Segment License Modification Order.

⁷ *Supra*, at FN 4.

⁸ *See, e.g.*, 2008 Space Segment License Modification Order, at ¶¶ 1 & 7.

⁹ *See, Successful Launch of Initial ORBCOMM Satellites*, Letter to Scott B. Harris, Chief, FCC International Bureau, from Stephen L. Goodman, Counsel for Orbital Communications Corporation, File No. SAT-A/O-19990228-00011 (Old File No. 00022-DSS-P-90) (April 11, 1995).

The successful December 21, 2015 launch was ORBCOMM's final OG2 program satellite deployment, and should be deemed sufficient to satisfy the public policy objectives of the Fifth Milestone. The Commission's satellite performance bond and license milestone Rules and policies were adopted to address the specific public interest objectives of deterring speculation and precluding "warehousing" of authorized frequencies and orbital resources.¹⁰ It is eminently clear that there is no speculation or "warehousing" occurring with respect to the ORBCOMM System or the OG2 ORBCOMM System replenishment program. The Commission has clearly recognized that the OG2 satellites do not constitute a new satellite system.¹¹ Continuing to require ORBCOMM to abide by the Fifth Milestone as originally written in the 2008 Space Segment Modification Order effectively requires ORBCOMM to maintain its remaining \$1 million performance bond until it certifies the operational status of the ORBCOMM System – which has been continuously operational for more than twenty years. Such a result would be administratively inefficient, and nonsensical. It would also be inconsistent with the Commission's newly adopted satellite performance bond and milestone Rules. Accordingly, grant of ORBCOMM's request for partial waiver of the Fifth Milestone will serve the public interest, convenience and necessity.

Nonetheless, in the unlikely event that ORBCOMM's request for waiver relief is not granted by the Commission, ORBCOMM amends its pending alternative request for extension of the Fifth Milestone deadline date.¹² Due to ongoing OG2 program delays,¹³ all of which have

¹⁰ See, e.g., 2015 Part 25 Revision Order, at ¶ 53.

¹¹ *Supra*, at FN 8. See, also, 2015 Part 25 Revision Order, at ¶ 340, and Appendix B ¶ 32.

¹² See, Fifth Milestone Waiver or Modification Request, Narrative Exhibit, at 5. ORBCOMM's pending alternative request in the event waiver relief is not granted sought to extend the Fifth Milestone deadline date to December 31, 2015.

clearly beyond ORBCOMM's reasonable control, ORBCOMM respectfully requests that the Fifth Milestone deadline date be extended to June 30, 2016. This amended alternative extension request should allow sufficient additional time for completion of pre-operational in-orbit testing of the new OG2 satellites.

CONCLUSION

For all of the above-stated reasons, there is good cause for the requested relief, and the public interest will be well served by the prompt grant of this Amended Fifth Milestone Waiver or Modification Request. Please associate this submission with the record of the above-captioned application. ORBCOMM respectfully requests that the Commission act promptly to grant the above-captioned application to modify the ORBCOMM Non-Voice, Non-Geostationary Satellite Service FCC space segment license, as amended by this submission.

Respectfully submitted,



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¹³ See, e.g., Fifth Milestone Waiver or Modification Request, Narrative Exhibit, at pp. 7-8.