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

In the Matter of Intelsat License LLC Petition for Declaratory Ruling Granting Access to the U.S. Market for a Non-U.S.-Licensed Non-Geostationary Orbit Satellite System	File Nos. SAT-PPL-20211104-00146 SAT-APL-_____

AMENDMENT TO PETITION FOR DECLARATORY RULING GRANTING ACCESS TO THE U.S. MARKET FOR A NON-U.S.-LICENSED NON-GEOSTATIONARY ORBIT SATELLITE SYSTEM

Gerry Oberst
J. Ryan Thompson
HOGAN LOVELLS US LLP
555 Thirteenth Street
Washington, DC 20004
(202) 637-5600

W. Ray Rutngamlug
Cynthia J. Grady
INTELSAT US LLC
7900 Tysons One Place
McLean, VA 22102

April 5, 2023

TABLE OF CONTENTS

I. Background 2

II. Intelsat Is Qualified to Hold the Requested Market Access Authorization. 3

A. Legal Qualification 3

B. Technical Qualifications 3

III. Design and Operational Frequencies 4

A. Constellation Design 4

B. Operational Frequencies 4

C. Orbital Debris Mitigation 5

D. Waiver Requests 5

1. There Is Good Cause to Grant a Waiver of §§ 25.155(b) and 25.157(c) to Place Intelsat in the 2020 Ku-Band Processing Round. 6

2. If the Major Amendment Rule Applies to this Amendment, There Is Good Cause to Grant a Waiver of § 25.116(c) to Preserve Intelsat's Status in the 2021 V-Band Processing Round. 10

3. Prior Waiver Requests Are Incorporated by Reference. 14

IV. Grant of This Application Will Serve the Public Interest. 15

A. Effect on Competition in the United States 16

B. National Security, Law Enforcement, Foreign Policy, and Trade Issues 17

C. Spectrum Availability 17

V. Conclusion 17

Exhibit A – FCC Form 312, Response to Question 34: Foreign Ownership

Exhibit B – FCC Form 312, Response to Question 40: Officers, Directors, and Ten Percent or Greater Shareholders

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

In the Matter of Intelsat License LLC Amendment to Petition for Declaratory Ruling Granting Access to the U.S. Market for a Non-U.S.-Licensed Non-Geostationary Orbit Satellite System	File Nos. SAT-PPL-20211104-00146 SAT-APL-_____

AMENDMENT TO PETITION FOR DECLARATORY RULING GRANTING ACCESS TO THE U.S. MARKET FOR A NON-U.S.-LICENSED NON-GEOSTATIONARY ORBIT SATELLITE SYSTEM

Intelsat License LLC ("Intelsat"), pursuant to Section 25.116 of the Federal Communications Commission ("Commission" or "FCC") rules,[1] hereby amends its petition for authorization to serve the U.S. market with a non-geostationary orbit ("NGSO") satellite system designed to meet the evolving connectivity needs of consumers around the world ("Amendment").[2] Specifically, Intelsat requests Commission authorization to use additional Ku-band spectrum for Intelsat's NGSO system ("Intelsat MEO Constellation").[3]

Grant of this Amendment will enable Intelsat to integrate a new medium-Earth orbit ("MEO") constellation with Intelsat's expansive geostationary orbit ("GSO") satellite fleet and terrestrial network, creating the world's first multi-orbit, multi-layer, multi-band, software-defined

---

1 47 C.F.R. § 25.116.

2 *See Cut-Off Established for Additional NGSO-Like Satellite Systems in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz and 50.4-51.4 GHz Bands*, Public Notice, 36 FCC Rcd 12148 (2021) ("*2021 V-Band Processing Round PN*").

3 Intelsat is seeking authorization to operate the Intelsat MEO Constellation under the authority of the Federal Republic of Germany. *See* Exhibit C, Application of Intelsat License LLC, as debtor-in-possession, IBFS File No. SAT-PPL-20211104-00146 (filed Nov. 4, 2021) ("Petition").

5G network designed to benefit consumers in the United States and around the globe. This integrated network will provide ubiquitous, reliable connectivity services, benefits of coverage and lower latency common to lower-Earth orbits, allowing Intelsat to provide high-speed connectivity and innovative services to its U.S. and global enterprise, institutional, and government consumers.

Consistent with the Commission's rules, this Amendment (including this narrative, waiver requests, FCC Form 312, and associated schedules and exhibits) provides only information that is new or different from the information in the Petition, which is hereby incorporated by reference.[4] As described herein and in the accompanying materials, grant of the Petition, as amended, will strongly serve the public interest.[5]

I. BACKGROUND

On August 4, 2021, the Commission released a public notice announcing that it accepted for filing petitions from AST&Science LLC and others seeking U.S. market access using a V-band spectrum.[6] That public notice also began a processing round for additional applications and petitions for NGSO-like satellite systems operating in these frequencies.[7]

On November 4, 2021, Intelsat filed the Petition with the Commission as part of the 2021 V-band NGSO processing round. Except as described here, all characteristics associated with

---

[4] The amended engineering statement attached hereto ("Amended Engineering Statement") incorporates the technical details provided in the original engineering statement included with the Petition and identifies where material changes have been made (i.e., concerning the inclusion of the 10.7-12.7 GHz band for user links).

[5] To the extent this Amendment is deemed unacceptable for filing or would be considered a major amendment affecting the filing date of the Petition or Intelsat's ability to participate in the Commission's 2021 V-band processing round, Intelsat reserves the right to withdraw this Amendment, in whole or in part, to address such issues. In Section III.D.2, below, Intelsat seeks a waiver of Section 25.116(c) of the Commission's rules, if needed to permit it to maintain its priority status in both processing rounds.

[6] *2021 V-Band Processing Round PN.*

[7] *Id.*

operations described in the (e.g., basic satellite power requirements, spacecraft configuration, orbital debris, and end-of-life characteristics) remain as originally described in the Petition.

This Amendment seeks to augment the original Petition by adding the 10.7-12.7 GHz band for user downlinks using spacecraft antennas originally dedicated for V-band downlinks. Thus, the downlinks previously available for user operations only in the V-band would now operate using Ku- and V-band frequencies. Authorizing this added operational flexibility and system capacity is in the public interest. Doing so will greatly enhance Intelsat's ability to deliver next-generation satellite services to consumer, commercial, and government users, and Intelsat's limited Ku-band operations will be fully compatible with other terrestrial and non-terrestrial Ku-band operations.

II. INTELSAT IS QUALIFIED TO HOLD THE REQUESTED MARKET ACCESS AUTHORIZATION.

A. Legal Qualification

Intelsat is legally qualified to hold the market access authorization requested in this Amendment (and the preceding Petition). The attached Form 312 demonstrates Intelsat's compliance with the Commission's basic legal qualifications. In addition, Intelsat already holds multiple FCC GSO satellite licenses, and its legal qualifications are a matter of record before the Commission.[8]

B. Technical Qualifications

Intelsat is technically qualified to hold the market access authorization requested in this Amendment (and the preceding Petition). The attached Form 312, Schedule S, and Engineering

[8] *See Constellation, LLC, Carlyle PanAmSat I, LLC, Carlyle PanAmSat II, LLC, PEP PAS, LLC, and PEOP PAS, LLC, Transferors and Intelsat Holdings, Ltd., Transferee, Consolidated Application for Authority to Transfer Control of PanAmSat Licensee Corp. and PanAmSat H-2 Licensee Corp.*, Memorandum Opinion and Order, 21 FCC Rcd 7368 ¶ 23 (2006) ("The Commission previously has determined that PanAmSat and Intelsat are qualified to hold licenses.").

Statement demonstrate this Amendment's (and the preceding Petition's) compliance with the relevant technical rules.

III. DESIGN AND OPERATIONAL FREQUENCIES

A. Constellation Design

This information remains unchanged from the Petition and is incorporated in the Amended Engineering Statement.[9]

B. Operational Frequencies

The Intelsat MEO Constellation is designed to complement Intelsat's existing GSO satellite fleet and will be supported by a ground-based network that incorporates Ku- and V-band user terminals and V-band gateways. Intelsat is seeking U.S. market access in the following frequency bands:

User Terminal	10.7-12.7 GHz (space-to-Earth)[10]
	12.70-12.75 GHz (space-to-Earth)[11]
	12.75-13.25 GHz (Earth-to-space)
	14.0-14.5 GHz (Earth-to-space)
	37.5-40.0 GHz (space-to-Earth)
	40.0-42.0 GHz (space-to-Earth)
	42.0-42.5 GHz (space-to-Earth)[12]
	48.2-50.2 GHz (Earth-to-space)
Gateway	37.5-40.0 GHz (space-to-Earth)
	40.0-42.0 GHz (space-to-Earth)
	47.2-48.2 GHz (Earth-to-space)[13]
	48.2-50.2 GHz (Earth-to-space)
	50.4-51.4 GHz (Earth-to-space)

9 Amended Engineering Statement § 2.

10 This spectrum band is the subject of this amendment.

11 Intelsat is not seeking market access in the 12.70-12.75 GHz frequency band and has omitted this band from the Schedule S. This band is included in this table solely for information purposes.

12 Intelsat is not seeking market access in the 42.0-42.5 GHz frequency band and has omitted this band from the Schedule S. This band is included in this table solely for information purposes.

13 Intelsat understands that its operations in the United States will be on a secondary basis vis-à-vis terrestrial users in this the 47.2-48.2 GHz band. *See Allocation and Designation of*

The Intelsat MEO Constellation will operate its telemetry, tracking, and command ("TT&C") within the above identified V-band gateway bands.[14]

C. Orbital Debris Mitigation

This information remains unchanged from the Petition and is incorporated in the Amended Engineering Statement.[15]

D. Waiver Requests

The Commission may waive its rules "for good cause shown."[16] Good cause exists if "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."[17] In determining whether waiver is appropriate, the Commission "take[s] into account considerations of hardship, equity, or more effective implementation of overall policy."[18] Additionally, the Commission generally grants a waiver of the Table of Frequency Allocations "when there is little potential interference into any service authorized under the Table of Frequency Allocations and when the nonconforming operator accepts any interference from authorized services."[19]

Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.1-41.5 GHz, and 48.2-50.2 GHz Frequency Bands et al., Report and Order, 13 FCC Rcd 24649 ¶ 2 (1998).

14 TT&C transmissions will not cause greater interference or require more protection from harmful interference than the communications traffic on the satellite network.

15 Amended Engineering Statement § 4.

16 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

17 *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

18 *WAIT Radio*, 418 F.2d at 1159.

19 *The Boeing Company*, Order and Authorization, 16 FCC Rcd 22645 ¶ 12, n.48 (IB & OET 2001) (citing *Application of Fugro-Chance, Inc. for Blanket Authority to Construct and Operate a Private Network of Receive-Only Mobile Earth Stations, Order and Authorization*, 10 FCC Rcd 2860 (IB 1995) (authorizing Mobile Satellite Service in the C-band); *Application of Motorola Satellite Communications, Inc. for Modification of License*, Order and Authorization,

1. There Is Good Cause to Grant a Waiver of §§ 25.155(b) and 25.157(c) to Place Intelsat in the 2020 Ku-Band Processing Round.

The Commission administers NGSO processing rounds to protect the investment-backed expectations of prior authorized systems while ensuring competitive opportunities for later entrants.[20] In light of this objective, when receiving an NGSO application, the Commission determines "whether it is a 'competing application,' i.e., filed in response to a public notice initiating a processing round, or a 'lead application,' i.e., all other applications for NGSO-like satellite operation."[21] An NGSO application "will be entitled to comparative consideration with one or more mutually exclusive applications only if the application is received by the Commission in a condition acceptable for filing by the 'cut-off' date specified in a public notice."[22] Taking this approach "maintain[s] the flexibility to evaluate the particulars in deciding whether to waive a processing round rather than restrict [the Commission] via a one-size-fits-all approach."[23]

Processing round waiver requests receive case-by-case treatment.[24] The Commission considers whether (1) frequency sharing is feasible, (2) the grant might harm prior applicants'

11 FCC Rcd 13952 ¶¶ 10-11 (IB 1996) (authorizing service to fixed terminals in bands allocated to the mobile satellite service)).

20 *See Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report and Order *et al.*, 32 FCC Rcd 7809 ¶ 61 (2017) ("*2017 NGSO R&O*").

21 47 C.F.R. § 25.157(c).

22 47 C.F.R. § 25.155(b).

23 *Kuiper Systems, LLC Application for Authority to Deploy and Operate a Ka-band Non-Geostationary Satellite Orbit System*, Order and Authorization, 35 FCC Rcd 8324 ¶ 44 (2020) ("*Kuiper Grant*").

24 *See 2017 NGSO R&O* ¶ 61.

investments, and (3) the current applicant would face any undue hardship, be subject to unfair processes, or be unable to provide the range of services it proposes.[25]

Intelsat requests a waiver of the processing round rules with respect to the 10.7-12.7 GHz, 12.75-13.25 GHz, and 14.0-14.5 GHz bands.[26] The Intelsat MEO Constellation can readily share these bands, and the investments of earlier Ku-band applicants would remain unharmed.[27] In contrast, declining Intelsat's request for a waiver would prevent U.S. consumers from benefitting from the range of services the Intelsat MEO Constellation will provide, while creating undue hardship for Intelsat.

Frequency sharing. Intelsat's operations would preclude neither 2020 processing round Ku-band applicants nor other future entrants from using the proposed Ku-band frequencies. Intelsat would (1) coordinate frequency use in good faith, (2) meet the default NGSO sharing criteria and subsequent rule changes,[28] and (3) use highly directional antennas, software-defined radios, beam-forming and beam-shaping techniques, satellite diversity, and other progressive interference-mitigation tools to permit frequency sharing in this band.

---

25 *See Kuiper Grant* ¶¶ 43-44.

26 The Petition sought waiver of the FCC processing rules with respect to the 12.75-13.25 GHz and 14.0-14.5 GHz bands. Petition, Legal Narrative at 11-14.

27 The Commission is currently exploring ways to enhance its NGSO spectrum-sharing regime. *Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems, Revision of Section 25.261 of the Commission's Rules to Increase Certainty in Spectrum Sharing Obligations Among NGO FSS Systems*, Order and Notice of Proposed Rulemaking, 36 FCC Rcd 17871 (2021). Even without FCC adoption of any of the proposed changes, the Intelsat MEO Constellation can coexist with co-frequency NGSO systems so long as their operators coordinate in good faith. 47 C.F.R. § 25.261(b) ("NGSO FSS operators must coordinate in good faith the use of commonly authorized frequencies.").

28 *See* 47 C.F.R. § 25.261.

Prior applicants' investments. Although Intelsat submitted its Ku-band NGSO application after the 2020 processing round's application cut-off date,[29] the inclusion of the Intelsat MEO Constellation in the 2020 processing round is justified because only minimal investment-backed expectations would be affected. In particular, the four 2020 Ku-band processing round applicants all propose new or drastically different systems.[30] As a result, they likely have yet to fully finance their systems, complete system design, or coordinate in earnest in the little time that has passed since filing their applications.

Undue hardship, unfair processes, and inability to deploy a range of services. Without the waiver, undue hardship, unfair processing, and service-deployment difficulties unique to Intelsat would ensue. Intelsat might have to wait two to four years (based on the cadence of recent rounds) for another Ku-band processing round to open. Also, even if another processing round opens, grant of the Petition, as amended, may not occur immediately given the Commission's current application backlog (and numerous other license applications), resource constraints (multiple satellite-related rulemakings and personnel shortages), and the International Bureau's

---

29 *See Cut-off Established for Additional NGSO FSS Applications or Petitions for Operations in the 10.7-12.7 GHz, 12.75-13.25 GHz, 13.8-14.5 GHz, 17.7-18.6 GHz, 18.8-20.2 GHz, and 27.5-30 GHz Bands*, Public Notice, 35 FCC Rcd 2881 (IB 2020) (establishing a May 26, 2020, filing deadline).

30 Four applicants sought Ku-band access in the 2020 processing round: Kepler (new system), New Spectrum Satellite (new system with different configuration from initial 2017 proposal), OneWeb (drastic system reconfiguration), and SpaceX (new system). *See* Application of Kepler Communications Inc., IBFS File No. SAT-PDR-20200526-00059 (filed May 26, 2020); Application of WorldVu Satellites Limited, IBFS File Nos. SAT-MPL-20200526-00062 & SAT-APL-20210112-00007 (filed May 26, 2020 and amended Jan. 12, 2021); Application of New Spectrum Satellite, IBFS File No. SAT-APL-20200526-00060 (filed May 26, 2020); Application of Space Exploration Holdings, LLC, IBFS File Nos. SAT-LOA-20200526-00055 & SAT-AMD-20210818-00105 (filed May 26, 2020 and amended Aug. 18, 2021).

organizational overhaul.[31] And if the Intelsat MEO Constellation's Ku-band frequencies are unavailable for use in the United States, these issues could delay and even seriously impede the commencement of the enhanced connectivity services that Intelsat's unique multi-orbit, multi-band network will provide U.S. consumers. In turn, the public benefit provided by Intelsat's hybrid network would be limited.

The present situation is distinguishable from the Commission's recent dismissal of a similar waiver request. Kuiper Systems LLC ("Kuiper") sought a waiver of the processing round rules after the application cut-off deadline (approximately thirty-one months earlier) and after seven of the eight remaining applicants received FCC authority.[32] The Commission rejected the waiver request. The Commission reasoned that Kuiper failed to show that, without the waiver, it would face any undue hardship, have been subject to unfair processes, or be unable to provide the range of services it proposed.[33] The same is not true here, as described above. Given the specifics of the Petition, as amended, and pace of development in the NGSO satellite sector, an appropriate, unique environment exists to support waiver of the processing round rules in the public interest.

---

31 *Establishment of the Space Bureau and the Office of International Affairs and Reorganization of the Consumer and Governmental Affairs Bureau and the Office of the Managing Director*, Order, MD Docket No. 23-12, FCC 23-1 (rel. Jan. 9, 2023).

32 *See Kuiper Grant* ¶¶ 35-45; *see also, Theia Holdings A, Inc.*, Memorandum Opinion, Order and Authorization, 34 FCC Rcd 3526 ¶ 45 (2019); *Space Exploration Holdings, LLC Application for Approval for Orbital Deployment and Operating Authority for the SpaceX NGSO Satellite System et al., Order and Authorization et al.*, Memorandum Opinion, Order and Authorization, 33 FCC Rcd 3391 (2018); *WorldVu Satellites Limited Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System*, Order and Declaratory Ruling, 32 FCC Rcd 5366 (2017).

33 See *Kuiper Grant* ¶¶ 43-44.

Finally, Intelsat recognizes that another V-band processing round applicant has requested that the Commission initiate a new Ku-band processing round.[34] If the Commission denies Intelsat's request to be considered in the 2020 Ku-band processing round, Intelsat urges the Commission to quickly initiate a new Ku-band NGSO and consider Intelsat's request for Ku-band spectrum as part of that processing round.

2. If the Major Amendment Rule Applies to this Amendment, There Is Good Cause to Grant a Waiver of § 25.116(c) to Preserve Intelsat's Status in the 2021 V-Band Processing Round.

Section 25.116(b) identifies certain kinds of amendments to pending satellite applications that qualify as "major amendments," including amendments that increase the potential for interference, change a system's proposed frequencies, result in a significant environmental effect, or otherwise are found to be substantial by the Commission.[35] Section 25.116(c) states that an NGSO-like application "will be considered to be a newly filed application if it is amended by a major amendment . . . after a 'cut-off' date applicable to the application."[36] But Section 25.116(c) also contains explicit exceptions for amendments that "resolve[] frequency conflicts with authorized stations or other pending applications but do[] not create new or increased frequency conflicts."[37]

As demonstrated below, the changes described in this Amendment are not "major" under Section 25.116 and should not affect the relative status of the Intelsat MEO Constellation

---

[34] Legal Narrative, Application of Kuiper Systems LLC, IBFS File No. SAT-LOA-20211104-00145, at 1, n.1 (filed Nov. 4, 2021) ("Kuiper V-Band Application") ("In accordance with Section 25.157(c) of the Commission's rules, . . . [Amazon's] request for Ku-band frequencies may be treated as a lead application for the purposes of initiating a processing round.").

[35] 47 C.F.R. § 25.116(b)(1)-(4).

[36] 47 C.F.R. § 25.116(c).

[37] 47 C.F.R. § 25.116(c)(1).

deployment in the 2021 V-band processing round.[38] But, if the Commission determines that this Amendment is "major" and no exception applies, Intelsat also requests a waiver of Section 25.116(c) to ensure that this Amendment does not cause the Petition to be treated as "newly filed" in the V-band processing round.

i. This Amendment Is Not a "Major" Amendment Under the Commission's Rules and Precedent.

An amendment is major if it "increases the potential for interference, or changes the proposed frequencies or orbital locations to be used."[39] For example, in 2017, O3b filed an amendment for its pending Ka-band application that, among other things, sought to alter its proposed operations in the 19.3-19.7 GHz and 29.1-29.5 GHz bands from nonconforming Fixed Satellite Service ("FSS") use to conforming Mobile Satellite Service use.[40] Rejecting a claim that this constituted a major amendment, the Commission held that "Section 25.116 . . . is intended to address major amendments affecting other NGSO systems under consideration *in the processing round*. *It is not intended to remove an application from consideration in a processing round where the amendment affects parties outside of the processing round*."[41] The Commission then concluded that the alteration would not harm processing round participants.[42]

Likewise here, the addition of Ku-band downlink spectrum to the Intelsat MEO Constellation is outside the scope of V-band processing round and would "affect[] parties outside

---

38 47 C.F.R. § 25.116(b), (c).

39 47 C.F.R. § 25.116(b)(1).

40 Application of O3b Limited, IBFS File Nos. SAT-MOD-20160624-00060 (O3b Modification), SAT-AMD-20161115-00116 (Ka-band Amendment), SAT-AMD-20170301-00026 (V-band Amendment), and SAT-AMD-20171109-00154 (November 2017 Amendment).

41 *O3b Limited*, Order and Declaratory Ruling, 33 FCC Rcd 5508 ¶ 39 (2018) (emphasis added).

42 *Id.*

of the processing round."[43] True, another 2021 V-band processing round applicant also has sought access to Ku-band spectrum.[44] But that application expressly asked the Commission to consider the request to use Ku-band spectrum as part of a new processing round (i.e., outside the context of the 2021 V-band processing round).[45] Thus, this Amendment only "affects parties outside the processing round" and is not "major."

ii. An Exception to the "Major" Amendment Rules Applies Here.

The Commission can refrain from treating an application as newly filed if the major amendment "resolves frequency conflicts with authorized stations or other pending applications but does not create new or increased frequency conflicts."[46] For example, in 2021, the Commission granted Boeing's amended V-band application. After the 2018 V-band processing round's closing, Boeing sought to add the 65-71 GHz band, which was outside the scope of the processing round.[47] The Commission concluded that (1) the amendment was "major" but (2) "Boeing's application [did] not need to be treated as a newly-filed application under [its] processing round procedures because the 2018 Amendment resolves frequency conflicts with other authorized stations or pending applications and does not generate new or increased frequency conflicts."[48] The

---

43 *Id.*

44 Kuiper V-Band Application.

45 Legal Narrative, Kuiper V-Band Application at 1, n.1 ("[Amazon's] request for Ku-band frequencies may be treated as a lead application for the purposes of initiating a processing round.").

46 47 C.F.R. § 25.116(c)(1).

47 *Boeing Application Accepted for Filing in Part, IBFS File No. SAT-LOA-20160622-00058, Cutoff Established for Additional NGSO-Like Satellite Applications or Petitions for Operations in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz, and 50.4-51.4 GHz Bands,* Public Notice, 31 FCC Rcd 11957 (2016).

48 *The Boeing Company Application for Authority to Launch and Operate a Non-Geostationary Satellite Orbit System in the Fixed-Satellite Service,* Order and Authorization, 36 FCC Rcd 16067 ¶ 20 (2021).

Commission also "f[ound] no new or increased frequency conflicts within the meaning of [its] major amendment rule" because the other authorized operator in the band, Audacy, was required to coordinate with future systems and Boeing's license was conditioned on coordination with existing and future systems.[49]

Likewise, authorizing Intelsat to use additional Ku-band downlink spectrum for user links would reduce the Intelsat MEO Constellation's reliance on V-band spectrum for user links, making it easier to resolve V-band frequency conflicts. While this amendment represents additional use of the 10.7-12.7 GHz band, it should not result in additional conflicts, as the Intelsat MEO Constellation can coexist with co-frequency NGSO systems so long as their operators coordinate in good faith. Intelsat thus proposes that the Commission either (1) grant a waiver of the processing round rules (which would create co-equal coordination obligations between Intelsat and other 2020 Ku-band processing round grantees, similar to Boeing and Audacy) or (2) place Intelsat in a new Ku-band processing round. In either scenario, Intelsat would not create new frequency conflicts within the 2021 V-band processing round.

iii. Waiver of the Major Amendment Rule Is Appropriate.

If the major amendment rule applies to this Amendment (without an available exception), there is good cause to waive Section 25.116(c). Strict application of the rule would disserve the public interest by harming Intelsat's ability to deploy a multi-band NGSO system. Nor is there any reason to remove the Intelsat MEO Constellation from the 2021 V-band processing round because, as discussed above, the addition of Ku-band frequencies is outside the scope of the processing round.

---

49 *Id.* ¶ 22.

The Commission granted such a waiver request for Theia when it amended its Ku-/Ka-band application by adding V-band spectrum.[50] The Commission

> f[ou]nd that a waiver of Section 25.116(c) is justified . . . . Although the addition of V-band frequencies . . . *could* be considered a change in the frequencies bands that constitutes a 'major' amendment, the addition of V-band frequencies does not increase the potential for interference to other participants in the Ku- and Ka-band processing round, since applicants in that processing round did not propose to operate in V-band frequencies and Theia's operations in V-band frequencies will not cause interference to operations of applicants proposed in Ku- and Ka-band frequencies.[51]

The Commission noted that the amendment was filed as part of the 2017 V-band processing round, finding that it "would not serve the public interest to demote the status of Theia's timely filed Ku- and Ka-band application simply because it filed its request to operate in V-band frequencies in the more appropriate V-band processing round."[52] Likewise here, Intelsat proposes to (1) participate in the 2020 Ku-band processing round through waiver grant or (2) join a new Ku-band processing round. In either scenario, 2021 V-band processing round applicants would not be affected. Thus, if this Amendment is deemed a "major" amendment, waiver of Section 25.116(c) is appropriate.

3. Prior Waiver Requests Are Incorporated by Reference.

The Petition sought waivers of Footnote NG57 of Section 2.106 and Section 25.202(a)(1)(ii) of the Commission's rules to use the 12.75-13.25 GHz and 37.5-40.0 GHz bands on a nonconforming basis.[53] In addition, the Petition sought waiver of Section 25.112(a) for any

---

50 *Theia Holdings A, Inc.*, Memorandum Opinion, Order and Authorization, 34 FCC Rcd 3526 ¶ 45 (2019).

51 *Id.* ¶ 46 (emphasis added).

52 *Id.*

53 Petition, Legal Narrative at 8-10.

application deficiencies.[54] Those requests are incorporated by reference, and Intelsat requests Commission grant each request.

IV. GRANT OF THIS APPLICATION WILL SERVE THE PUBLIC INTEREST.

Grant of the Petition, as amended, will serve the public interest by enhancing the operational flexibility and increasing the capacity of the Intelsat MEO Constellation. By allowing Intelsat to operate in the 10.7-12.7 GHz band, the Commission will enable a wide array of next-generation services at higher data rates and lower latency, as well as provide consumers with an additional choice of network on which they may roam. As discussed above, if the Commission finds any portion of this amendment to adversely affect the processing of the Petition, Intelsat reserves the right to withdraw this Amendment, in whole or in part, to address such issues.

In this Amendment (and prior Petition), Intelsat demonstrates compliance with applicable Commission rules and good cause for requested waivers to operate in certain Ku-band frequencies. On the uplink, Intelsat's gateway and high-capacity earth stations will be limited in number and able to protect any potentially co-frequency terrestrial operations from harmful interference. And on the downlink, Intelsat earth stations' receive operations will neither cause harmful interference to other systems and services nor constrain their deployment.

Further, the Petition showed Intelsat MEO Constellation's ability to share spectrum with other NGSO systems. These spectrum-sharing techniques apply equally to Ku-band downlink operations. Thus, Intelsat believes that it can coordinate its operations with other Ku-band NGSO grantees and protect future GSO operations.

And, in evaluating this Amendment (as with the Petition's proposal to use other spectrum), the Commission should remain mindful that Intelsat will operate globally and will be subject to

[54] Petition, Legal Narrative at 14-15.

the allocation rules and regulatory requirements of foreign nations in which it seeks to operate. Thus, regardless of the Commission's determinations on spectrum access in the United States, it should grant Intelsat authority to operate the Intelsat MEO Constellation in accordance with international allocations and applicable foreign rules.

Finally, grant of the Petition, as amended, accords with FCC policy on market access. When reviewing requests for U.S. market access, the Commission applies the "*DISCO II*" standard.[55] In particular, the Commission examines whether permitting access to the foreign-licensed satellite will distort competition in the United States or create issues relating to spectrum availability, national security, law enforcement, foreign policy, or trade.[56] The proposed Intelsat system follows these requirements, as detailed below.

A. Effect on Competition in the United States

The Commission has established a rebuttable presumption that competition in the U.S. market benefits from granting market access to non-U.S. satellites licensed by World Trade Organization ("WTO") members that provide services covered by U.S. commitments under the WTO Basic Telecommunications Agreement.[57] As noted above, Intelsat is seeking authorization to operate the Intelsat MEO Constellation under the authority of the Federal Republic of Germany to provide covered FSS operations.[58] The Federal Republic of Germany is a member of the World Trade Organization and a key U.S. ally. Accordingly, this Amendment and the preceding Petition are subject to the presumption in favor of market access.

---

55 *See generally Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094 (1997) ("*DISCO II*").

56 *See id.* ¶¶ 4, 178.

57 *See id.* ¶ 39.

58 *See id.* ¶¶ 25, 30.

B. National Security, Law Enforcement, Foreign Policy, and Trade Issues

The issues of national security, law enforcement, foreign policy, and trade factor in the evaluations of market access requests for non-U.S.-licensed satellites but are likely to arise only in "rare circumstances."[59] Grant of the Petition, as amended, is consistent with these considerations as Intelsat has a long history of providing satellite communication service to U.S. government and military users. Intelsat believes these users will greatly benefit from the secure communications obtained through leveraging the Intelsat MEO Constellation.

C. Spectrum Availability

Information on spectrum availability appears in Sections 3.1.2 and 3.1.3 of the Amended Engineering Statement.

V. CONCLUSION

For all these reasons, Intelsat respectfully requests that the Commission grant this Amendment and the accompanying waivers.

Respectfully submitted,

/s/ W. Ray Rutngamlug

W. Ray Rutngamlug
Associate General Counsel

Cynthia J. Grady
Assistant General Counsel

INTELSAT US LLC
7900 Tysons One Place
McLean, VA 22102

Gerry Oberst
J. Ryan Thompson
HOGAN LOVELLS US LLP
555 Thirteenth Street
Washington, DC 20004
(202) 637-5600

April 5, 2023

[59] *Id.* ¶ 180 ("We emphasize, however, that we expect national security, law enforcement, foreign policy and trade policy concerns to be raised only in very rare circumstances. Contrary to the fears of some commenters, the scope of concerns that the Executive Branch will raise in the context of applications for earth station licenses is narrow and well defined.").

Exhibit A –
FCC Form 312, Response to Question 34: Foreign Ownership

The Commission previously approved Intelsat's ownership structure, including foreign ownership.[1] There have been no material changes to Intelsat's ownership since the *2022 Intelsat Order*.

[1] *See Intelsat S.A., as debtor-in-possession (Transferor) and New TopCo S.A. (Transferee)*, Order, IBFS File No. SAT-ASG-20210826-00117, IB Docket No. 21-375, DA 22-162 (rel. Feb. 16, 2022) ("*2022 Intelsat Order*").

Exhibit B –
FCC Form 312, Response to Question 40:
Officers, Directors, and Ten Percent or Greater Shareholders

Intelsat License LLC is a Delaware limited liability company. The officers and directors/managers of Intelsat License LLC are as follows:

Officers:	Board of Managers:
José Toscano, Deputy Chairman	José Toscano
Michelle Bryan, General Counsel, Chief Administrative Officer, and Secretary	Michelle Bryan
Mirjana Hervy, Director, Finance	

The business address of all Intelsat License LLC officers and members of the Board of Managers is: 7900 Tysons One Place, McLean, VA 22102.

Intelsat License LLC is a Delaware limited liability company that is indirectly wholly owned by Intelsat S.A. (formerly named Intelsat Emergence S.A.). Specifically, Intelsat License LLC is wholly owned by Intelsat License Holdings LLC, a Delaware limited liability company. Intelsat License Holdings LLC is wholly owned by Intelsat Ventures S.à r.l., a Luxembourg company, which is in turn wholly owned by Intelsat Alliance LP, a Delaware limited partnership. Intelsat Alliance LP is managed by one general partner (Intelsat Genesis GP LLC, a Delaware limited liability company) and two limited partners (Intelsat Genesis Inc., a Delaware corporation, and Intelsat Jackson Holdings S.A., a Luxembourg company). Intelsat Genesis GP LLC is wholly owned by Intelsat Genesis Inc., which is wholly owned by Intelsat Jackson Holdings S.A. Intelsat Jackson Holdings S.A. is wholly owned by Intelsat Connect Finance S.à r.l., a Luxembourg company, which in turn is wholly owned by Intelsat Envision Holdings LLC, a Delaware limited liability company. Intelsat Envision Holdings LLC is wholly owned by Intelsat (Luxembourg) S.à r.l., a Luxembourg company. Intelsat (Luxembourg) S.à r.l. is wholly owned by Intelsat Investments S.à r.l., a Luxemburg company, which in turn is wholly owned by Intelsat Holdings S.à r.l., a Luxembourg company. Intelsat Holdings S.à r.l. is wholly owned by Intelsat S.A., a Luxembourg company. Each of these entities may be contacted at the following address: 4, rue Albert Borschette, L-1246 Luxembourg.

Pacific Investment Management Company LLC ("PIMCO"), a Delaware limited liability company, serves as the manager or investment advisor for a number of investment funds and other investment vehicles that each hold less than 10% of the voting and non-voting equity interests in Intelsat S.A. However, to the best of Intelsat's knowledge, as of August 23, 2022, the aggregate total of the voting and non-voting equity interests in Intelsat S.A. held by PIMCO-managed funds and certain parent entities of PIMCO exceeded 10%. Details regarding PIMCO are listed below.

PIMCO

Name:	Pacific Investment Management Company LLC
Address:	650 Newport Center Drive, Newport Beach, CA 92660
Citizenship:	United States (Delaware)
Indirect Voting Interest:	Approximately 32.99%
Indirect Non-Voting Interest:	Approximately 32.99%

A complete list of the investment funds and entities collectively controlling a 10% or greater indirect voting and indirect non-voting interest in Intelsat S.A. is set forth in Intelsat's 2022 application for consent to the assignment and transfer of control of authorizations.[1]

[1] *See* Application for Assignment and Transfer of Control of Authorizations held by Intelsat License LLC, as debtor-in-possession, IBFS File No. SAT-ASG-20210826-00117 (filed Aug. 26, 2021).