



Federal Communications Commission
Washington, DC 20554

International Bureau

DA 04-1719

June 16, 2004

Mr. Brian Park
AfriSpace, Inc.
2400 N St NW
Washington, DC 20037-1188

Re: Application for Authority to Launch and Operate a Replacement Satellite, AfriStar-2, at 21° E.L. and to Co-locate it with AfriStar-1, File No. SAT-LOA-20040413-00082, Call Sign S2624.

Dear Mr. Park:

On April 13, 2004, AfriSpace, Inc. ("AfriSpace") filed the above-captioned application for authority to launch and operate AfriStar-2 at the at 21° E.L. orbital location. For the reasons discussed below, we dismiss the application as defective, without prejudice to refiling.

Section 25.114(c) of the Commission's rules¹ requires all space station applicants to submit all applicable items of information listed in its subsections. In the *First Space Station Reform Order*,² the Commission affirmed the policies embodied in this rule by continuing to require applications to be substantially complete when filed.³ As the Commission noted, the procedures and rules it adopted will enable the Commission to establish satellite licensees' operating rights clearly and quickly, and as a result, allow licensees to provide service to the public much sooner than might be possible under our previous licensing procedures.⁴ Finding defective applications acceptable for filing is not consistent with the rules and policies adopted by the Commission in the *First Space Station Reform Order* and only serves to create uncertainty and inefficiencies in the licensing process.

¹ 47 C.F.R. § 25.114(c).

² Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 (para. 244) (2003) (*First Space Station Reform Order*); International Bureau To Streamline Satellite And Earth Station Processing, *Public Notice*, Report No. SPB-140, October 28, 1998 (emphasizing the obligation to comply with 47 C.F.R. § 24.114(c) and stating that applications that did not comply would be dismissed).

³ *First Space Station Reform Order*, 18 FCC Rcd at 10852 (para. 244), citing Amendment of the Commission's Space Station Licensing Rules and Policies, *Notice of Proposed Rulemaking*, 17 FCC Rcd at 3875 (para. 84) (2002).

⁴ *First Space Station Reform Order*, 18 FCC Rcd at 10765-66 (para. 4).

AfriStar-2 will provide broadcasting-satellite service (sound) in the 1452-1492 MHz band.⁵ It will also operate feeder links in the 7025-7075 MHz band.⁶ The 7025-7075 MHz band is allocated on a primary basis to the fixed-satellite service in ITU Regions 1, 2, and 3, and to no other satellite service.⁷ The definition of “fixed-satellite service” in Section 25.201 of the Commission’s rules⁸ includes “feeder links of other space radiocommunication services.”

In Schedule S of its application, AfriSpace states that it plans to launch and operate AfriStar-2 with 23 dB of cross-polarization isolation on all of its antenna beams,⁹ including its feeder-link antenna beam, which is listed in Schedule S of AfriSpace’s application as Beam ID AU2. Section 25.210(i) of the Commission’s rules¹⁰ requires fixed-satellite service space station antennas to be designed to provide a cross-polarization isolation of 30 dB. Thus, AfriSpace’s proposed feeder links do not comply with the Commission’s rules. Moreover, AfriSpace has not requested a waiver of Section 25.210(i). Sections 25.112(a)(2) and (b)(1) of the Commission’s rules¹¹ state that an application that does not substantially comply with the Commission’s rules will be returned to the applicant as unacceptable for filing unless the application is accompanied by a waiver request with reasons supporting the waiver. Therefore, we find AfriSpace’s application defective and return it without prejudice to refiling pursuant to Sections 25.112(a)(2) and (b)(1) of the Commission’s rules¹²

⁵ Application for Authority to Launch and Operate a Replacement Satellite, AfriStar-2, at 21° E.L. and to Co-locate it with AfriStar-1, Application File No. SAT-LOA-20040413-00082 (“AfriSpace Application”) (Form 312 at Item 20).

⁶ *Id.* (Exhibit C at para. 1 and Exhibit G).

⁷ *See* 47 C.F.R. § 2.106 at p. 58.

⁸ 47 C.F.R. § 25.201.

⁹ AfriSpace Application (Item S7.g of Schedule S).

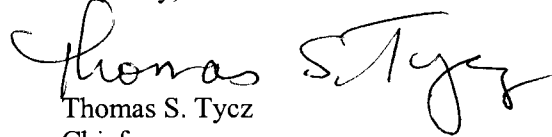
¹⁰ 47 C.F.R. § 25.210 (i).

¹¹ 47 C.F.R. §§ 25.112(a)(2) and 25.112(b)(1)

¹² 47 C.F.R. §§ 25.112(a)(2) and 25.112(b)(1)

Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), we find that this application, File No. SAT-LOA-20040413-00082, is defective. We therefore dismiss the application without prejudice to refiling.¹³

Sincerely,



Thomas S. Tycz
Chief,
Satellite Division

cc: Ms. Tara K. Giunta
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¹³ If AfriSpace refiles an application identical to the one dismissed, with the exception of supplying the missing information, it need not pay a further application fee. See 47 C.F.R. § 1.1109(d).