

S2786 SAT-LOA-20090217-00025 IB2009000445
XM Radio Inc.
XM-5

Approved by OMB
3060-0678

Date & Time Filed: Feb 17 2009 4:31:29:376PM
File Number: SAT-LOA-20090217-00025
Callsign/Satellite ID: S2786

APPLICATION FOR SATELLITE SPACE STATION AUTHORIZATIONS FCC 312 MAIN FORM FOR OFFICIAL USE ONLY	FCC Use Only
---	--------------

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
Application for XM-5

1-8. Legal Name of Applicant	Name: XM Radio Inc.	Phone Number: 202-380-4000
	DBA Name:	Fax Number: 202-380-4981
	Street: 1500 Eckington Place, NE	E-Mail: james.blitz@xmradio.com
	City: Washington	State: DC
	Country: USA	Zipcode: 20002
	Attention: James S Blitz	



File # SAT-LOA-20090217-00025

Call Sign S2786 Grant Date 08/31/09
(or other identifier)

Term Dates see attached
From To: conditions

Approved: Stephen J. Dvall
Stephen J. Dvall
Chief, Policy Branch

XM Radio Inc.
Attachment to Grant
IBFS File No. SAT-LOA-20090217-00025
(XM-5, Call Sign S2786)

The application of XM Radio Inc. (XM Radio) to launch and operate a new Satellite Digital Audio Radio Service (SDARS) space station, XM-5 (Call Sign S2786), IS GRANTED.

Accordingly, XM Radio is authorized to launch and operate the XM-5 space station at the 85.2° W.L. orbital location as an in-orbit spare for both the Sirius and XM Radio SDARS systems in the 2320-2345 MHz (space-to-Earth) and 7025-7075 MHz (Earth-to-space) frequency bands. All operations of the XM-5 space station must be in accordance with the technical specifications set forth in XM Radio's application, Federal Communication Commission rules, and the conditions set forth below.

1. XM Radio is authorized to operate the XM-5 space station at the 85.2° W.L. orbital location as a non-transmitting in-orbit spare, except for telemetry transmissions in the 2320-2345 MHz (space-to-Earth) frequency band and command transmissions in the 7025-7075 MHz (Earth-to-space) frequency band.

2. XM Radio may activate the communications payloads for the XM-5 space station in the 2320-2345 MHz (space-to-Earth) and 7025-7075 MHz (Earth-to-space) frequency bands in the event of a service outage of the XM-3 (Call Sign: S2617), XM-4 (Call Sign: S2616), FM-1, FM-2, FM-3 (Call Sign: S2105), or FM-5 (Call Sign: S2710) space stations.

3. In the event XM Radio activates the communications payload of the XM-5 space station pursuant to condition 2 above, XM Radio must notify the Commission, in writing, of such activation within three business days of the start of the activation.

4. XM Radio is authorized to operate XM-5 at the 85.2° W.L. orbital location with an East-West station-keeping tolerance of +/-0.05 degrees, pursuant to Section 25.210(j) of the Commission's rules, 47 C.F.R. § 25.210(j).

5. XM Radio shall operate the XM-5 space station in compliance with all relevant international and bilateral agreements between the United States and the Administrations of Canada and the United Mexican States regarding the provision of SDARS in North America.¹

6. XM Radio shall prepare the necessary information that may be required, for submission to the International Telecommunication Union (ITU) to initiate and complete the advance publication, international coordination, due diligence, and notification process of this space station, in accordance with the ITU Radio Regulations. XM Radio shall be held responsible for all cost recovery fees associated with these ITU filings. No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination and notification procedures are timely completed or, with respect to individual Administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other

¹ Pursuant to Article 4 of the "Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Use of the 2310-2360 Mhz Band," entered into on July 24, 2000, the United States provided a copy of the ITU Appendix S4 information for the satellite to Mexico on June 30, 2009.

XM Radio Inc.
Attachment to Grant
IBFS File No. SAT-LOA-20090217-00025
(XM-5, Call Sign S2786)

Administrations. 47 C.F.R. § 25.111(b).

7. The license term for the XM-5 space station is eight years and will begin on the date XM Radio certifies to the Commission that the XM-5 space station has been successfully launched and put into operation.

8. XM Radio has 30 days from the date of this grant to decline this authorization as conditioned. Failure to respond within that period will constitute formal acceptance of the authorization as conditioned.

9. This action is taken on delegated authority pursuant to 47 C.F.R. § 0.261 and is effective upon release. Petitions for reconsideration under 47 C.F.R. § 1.106 or applications for review under 47 C.F.R. § 1.115 may be filed within 30 days of the date of the Public Notice announcing this action.



*subject to
conditions

File # SAT-LOA-20090217-00025

Call Sign S2786 Grant Date 08/31/09
(or other identifier)

Term Dates see attached
From _____ To: conditions

Approved: Stephen J. Duall

Stephen J. Duall
Chief, Policy Branch

9-16. Name of Contact Representative

Name: Karis A. Hastings, Esq. Phone Number: 202-637-5767
 Company: Hogan & Hartson LLP Fax Number: 202-637-5910
 Street: 555 Thirteenth Street, NW E-Mail: kahastings@hhlaw.com
 City: Washington State: DC
 Country: USA Zipcode: 20004 -
 Attention: Relationship: Legal Counsel

CLASSIFICATION OF FILING

17. Choose the buttonnext to the classification that applies to thisfiling for both questions a. and b. Choose only one for 17a and only one for 17b.

- a.
 (N/A) a1. Earth Station
 a2. Space Station

b.

- b1. Application for License of New Station (N/A)
- b2. Application for Registration of New Domestic Receive-Only Station (N/A)
- b3. Amendment to a Pending Application (N/A)
- b4. Modification of License or Registration (N/A)
- b5. Assignment of License or Registration (N/A)
- b6. Transfer of Control of License or Registration (N/A)
- b7. Notification of Minor Modification (N/A)
- b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite
- b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- b10. Replacement Satellite Application - no new frequency bands
- b11. Replacement Satellite Application - new frequency bands (Not eligible for streamlined processing)
- b12. Petition for Declaratory Ruling to be Added to the Permitted List (N/A)
- b13. Other (Please specify)

<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 type="radio"/> Other(please explain):</p>	<p>17c. Fee Classification BNY – Space Station (Geostationary)</p>
<p>18. If this filing is in reference to an existing station, enter: (a) Call sign of station: Not Applicable</p> <p>19. If this filing is an amendment to a pending application enter: (a) Date pending application was filed: Not Applicable</p> <p>(b) File number of pending application: Not Applicable</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.
Not Applicable

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: 2320

Frequency Upper: 2345

(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.

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

26. TYPE OF EARTH STATION FACILITY: Not Applicable

PURPOSE OF MODIFICATION

27. The purpose of this proposed modification is to: (Place an "X" in the box(es) next to all that apply.) Not Applicable

ENVIRONMENTAL POLICY

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.

Yes No

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>
<p>30. Is the applicant an alien or the representative of an alien?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<p>31. Is the applicant a corporation organized under the laws of any foreign government?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<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 type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A</p>
<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 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 type="radio"/> Yes <input checked="" 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><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><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><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>Yes <input checked="" type="radio"/> No <input type="radio"/></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>Yes <input type="radio"/> No <input checked="" type="radio"/></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?</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.)

XM Radio hereby requests authority to launch XM-5 and operate it as an in-orbit spare at 85.2 degrees WL.

Exhibit A

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

B

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.

C

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.

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
James S. Blitz

46. Title of Person Signing
Vice President, Regulatory Counsel

47. Please supply any need attachments.

1: Technical Narrative

2:

3:

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).

Completed Schedule S

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0678), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to jboley@fcc.gov. PLEASE DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0678.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.