

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In re the Matter of)	
)	
Hughes Network Systems, LLC)	File No. SAT-LOI-20091110-00119
)	
Letter of Intent to Access the U.S. Market)	Call Sign S2753
Using a Non-U.S. Licensed Ka-Band)	
Geostationary Fixed-Satellite Service)	
Satellite at the 107.1° W.L. Orbital Location)	

RESPONSE OF HUGHES NETWORK SYSTEMS, LLC

Hughes Network Systems, LLC (“Hughes”), by its attorneys and pursuant to Section 25.154(c) of the Commission’s Rules (47 C.F.R. § 25.154(c)), hereby submits this Response to the request of O3b Limited (“O3b”) for clarification and/or reconsideration (“O3b Request”) of the Commission’s May 5, 2010 stamp grant, with conditions, of Hughes’s above-captioned letter of intent submission (“Hughes LOI Grant”). As Hughes explains below, O3b seeks a clarification that is unnecessary under the Commission’s rules and policies, and its Request should be speedily dismissed.

As an initial matter, and notwithstanding O3b’s decision to style its Request as a request for clarification and/or reconsideration, Hughes is considering O3b’s filing as only a request for clarification. O3b fails to plead or meet the prerequisites for a petition for reconsideration that are stated in Section 1.106 of the Commission’s Rules (47 C.F.R. § 1.106), and thus its Request fails as a petition for reconsideration. O3b is not a party to the proceeding on the Hughes LOI, and thus was obliged by Section 1.106(b)(1) to “state with particularity” both the manner in which its interests are aggrieved by the Hughes LOI Grant

and why it was not possible for O3b to participate in the earlier stages of the proceeding. O3b does neither. Indeed, Hughes can find no indication that O3b has an application or letter of intent submission for a non-geostationary satellite system in the 28.6-29.1 GHz band pending before the Commission. If O3b persists in having its Request treated as a petition for reconsideration, the Commission has no option but to dismiss the procedurally defective Request outright.

As a request for clarification, O3b's call for the imposition of reminders and conditions regarding use of the 28.6-29.1 GHz band is unnecessary. O3b comments on the fact that the Hughes LOI Grant, in apparent contrast with other recent stamp grant actions, does not "remind" Hughes that its geostationary-orbit fixed-satellite service ("FSS") operations in the 28.6-29.1 GHz band are on a secondary basis to potential future non-geostationary-orbit ("NGSO") FSS operations in the same band. O3b Request at 2. The Hughes LOI Grant does not remind Hughes of myriad other obligations and policies that apply to its provision of service to the U.S. from the satellite it is establishing for Ka-band operation at 107.1° W.L. For example, the Hughes LOI Grant does not remind Hughes of the full frequency re-use obligation, the requirement to employ orthogonal polarization, or many of the other technical requirements imposed in the Commission's Rules. If a specific condition in a stamp grant were required to prevent Commission regulations and policies from being rendered inapplicable, chaos would reign and stamp grants would be hundreds of pages long.

In any event, the Hughes LOI Grant specifically states that the grant is subject to unwaived Commission Rules. Hughes LOI Grant at Attachment. Commission policy clearly provides that geostationary-orbit satellite networks (in particular earth stations of

such networks) may only use the 28.6-29.1 GHz band on a secondary basis. *See Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.530 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 12 FCC Rcd. 22310, 22327 (1997) ("GSO FSS systems are ... designated on a secondary priority basis to NGSO FSS systems in the 28.60-29.10 GHz band segment"). Non-mention of this policy in the Hughes LOI Grant, in the absence of a waiver or statement of contradictory import, does nothing to alter the applicability of the policy. There is no waiver or contradiction of the policy in the Hughes LOI Grant, of course. The fact that the policy is mentioned in other stamp grant actions is irrelevant, as nothing in those actions waives, contradicts or questions the policy in any way.

On the basis of the foregoing discussion, the Commission should swiftly dispatch the Request with a determination that no conditions, revisions, enhancements, or clarifications to the conditions attached to the Hughes LOI Grant are needed or appropriate.

Respectfully submitted,

HUGHES NETWORK SYSTEMS, LLC

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June 15, 2010

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CERTIFICATE OF SERVICE

I, Cynthia M. Forrester, hereby certify that on this 15th day of June, 2010, a copy of the foregoing Response of Hughes Network Systems, LLC is being sent via first class, U.S. mail, postage prepaid, to the following:

Brian Holz
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Cynthia M. Forrester