

JUN 7 1990

Goldberg & Spector
1229 19th Street, N.W.
Washington, D.C. 20036

Attention: Henry Goldberg

Reference: Spotnet 1 and Spotnet 2 Domestic Fixed-Satellites

Dear Mr. Goldberg:

This is in response to your February 22, 1990 letter, written on behalf of National Exchange Satellite, Inc. (NEXSAT), concerning the status of NEXSAT's Spotnet 1 and Spotnet 2 domestic fixed-satellites. The authorization for these satellites, which was issued in November 1986, requires NEXSAT to begin construction of Spotnet 1 by August 1989 and Spotnet 2 by July 1990. National Exchange Satellite, Inc., 3 FCC Rcd 6992 (1988) (Authorization Order). The Authorization Order further provides that unless amended by the Commission for good cause shown, the authorization is to become null and void if the specified deadlines are not met. Authorization Order at para. 8. In February 1989, NEXSAT filed a request for orbital reassignments for both satellites. This request was granted in January 1990. Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service, FCC 89-364 (released January 11, 1990).

As of mid-February 1990, NEXSAT had not indicated to the Commission that construction of Spotnet 1 had commenced. Moreover, no request for an extension of the required August 1989 construction deadline had been filed. Consequently, NEXSAT was requested to verify that it had entered into a non-contingent construction contract for Spotnet 1 and had commenced construction by the required date. See Letter from Chief, Domestic Facilities Division to Counsel, NEXSAT (February 16, 1990).

In NEXSAT's response to this letter, it indicates that it has not begun to construct Spotnet 1. It states that it was impossible for it to make any commitments regarding construction of both Spotnet satellites until the Commission acted on its reassignment requests. See Letter from Counsel, NEXSAT to Chief, Domestic Facilities Division (February 22, 1990). It asserts that if its reassignment requests were denied and the satellites were required to operate in the high power density orbital arc, where they were initially assigned, it would be necessary to make "substantial modifications to its spacecraft design and/or a radical departure from its planned service offerings." NEXSAT further requests the Commission to readjust the implementation schedule for both Spotnet satellites to reflect that it was not able to initiate concrete steps toward construction until January 1990. While NEXSAT does not provide specific dates, recalculating the original time period between grant and construction commencement based on a January 1990 grant

date results in an October 1990 commencement date for Spotnet 1 and a September 1991 commencement date for Spotnet 2.

NEXSAT did not begin construction of Spotnet 1 by the required date nor did it request an extension of this date. The fact that NEXSAT filed a request for orbital reassignment, which was pending until January 1990, does not, alone, excuse its failure to meet its construction milestone. It appears the only satellite components that could have been affected by the pending request were the antennas, whose coverage pattern would need to be readjusted depending on orbital location, and the traveling wave tube amplifiers (TWTAs), whose power may have needed to be adjusted depending on whether the satellite was operating in the high or lower power density arcs. These components are not involved in the early phases of satellite construction. Rather, they are incorporated when the space station is nearing completion. In fact, the Commission regularly receives requests for authority to change transponder power and antenna coverage patterns for satellites that are essentially completed. See, e.g., American Satellite Company, 5 FCC Rcd 1184 (1990) (change ASC-2 orbital location and increase power level on two transponders); American Telephone and Telegraph Co., 5 FCC Rcd 1186 (1990) (add spot beam covering Hawaii to Telstar 401 and Telstar 402); Application of GTE Spacenet Corporation for authority to increase transponder power on GSTAR 4 (File No. 11-DSS-MP/ML-90). The spacecraft bus, solar panels, tracking, telemetry and control (TT&C) components, and other long-term procurement items would not be affected by a change in assignment.

Nevertheless, because of any confusion NEXSAT may have had concerning the implementation milestone schedule while its reassignment request was pending, it will be granted additional time in which to commence construction of Spotnet 1. Moreover, given the imminence of the construction commencement date for Spotnet 2, it will also be granted an extension for this satellite. As requested, it will be granted until October 1990 to begin construction of Spotnet 1. The construction commencement deadline for Spotnet 2 will be extended to March 1991. This extension should provide NEXSAT sufficient time to complete the pre-construction process and to execute a construction contract for Spotnet 2. NEXSAT has not demonstrated that any additional time beyond this period is necessary or is justified given the factors discussed above.

To ensure that NEXSAT is in compliance with these milestones, it is required to submit to the Commission copies of its construction contracts with the spacecraft manufacturer, including any relevant amendments and notices to proceed, no later than October 31, 1990 for Spotnet 1 and no later than March 31, 1991 for Spotnet 2. Failure to respond within this time frame will subject the authorizations for these satellites to revocation.

Sincerely,

James R. Keegan
Chief, Domestic Facilities Division
Common Carrier Bureau

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