



File # SAT-MOD-20050610-00120
with attached conditions

Call Sign S2109 Grant Date Sept 30, 2005

(or other identifier)

Term Dates

Approved by OMB
3060-0678

From see conditions To: see conditions

Approved: [Signature] Chief Satellite Engineering Branch
Robert G. Nelson

Date & Time Filed: Jun 10 2005 2:57:23:573PM
File Number: SAT-MOD-20050610-00120

FCC APPLICATION FOR SPACE AND EARTH STATION:MOD OR AMD - MAIN FORM	FCC Use Only
FCC 312 MAIN FORM FOR OFFICIAL USE ONLY	

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
Intelsat's Request for Waiver of Rule for INTELSAT 905

1-8. Legal Name of Applicant

Name:	Intelsat North America LLC	Phone Number:	202-944-7848
DBA Name:		Fax Number:	202-944-7860
Street:	c/o Intelsat Global Svc. Corp. 3400 International Drive, N.W.	E-Mail:	susan.crandall@intelsat.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20008 -3006
Attention:	Susan H. Crandall		

ATTACHMENT

INTELSAT 905

File No. SAT-MOD-20050610-00120

Call Sign: S2409

September 30, 2005

Intelsat North America LLC's (Intelsat North America) modification request, IBFS No. SAT-MOD-20050610-00120,¹ to add domestic extended Ku-band service on a non-interference, unprotected basis, relative to fixed stations (FS), to its existing authorization² to operate the in-orbit Fixed Satellite Service (FSS) C-and Ku-band INTELSAT 905 satellite (Call Sign: S2409) at 24.5° W.L. (335.5° E.L.) IS GRANTED. Accordingly, Intelsat North America is authorized to operate the INTELSAT 905 satellite at 24.5° W.L. (335.5° E.L.) in order to provide domestic service in the extended Ku-bands, 10.95-11.2 GHz (space-to-Earth) and 11.45-11.7 GHz (space-to-Earth), in accordance with the terms, conditions, and technical specifications set forth in its application, this Attachment and the Federal Communications Commission's (Commission) Rules. This is in addition to Intelsat North America's continuing authority to provide protected international service in the extended Ku-bands, 10.95-11.2 GHz and 11.45-11.7 GHz (space-to-Earth), as well as protected international and domestic services in the C- and Ku- bands, 3625-3700 MHz and 3700- 4200 MHz (space-to-Earth); and 5850- 5925 MHz, 5925- 6425 MHz and 14.0-14.5 GHz (Earth-to-space).³ The conditions of Intelsat North America's existing authorization otherwise remain unchanged.

- 1) Intelsat North America's requests for waivers of footnote NG104 of the United States Table of Frequency Allocations, 47 C.F.R. § 2.106,⁴ and of footnote 2 of Section 25.202(a)(1) of the Commission's Rules, 47 C.F.R. § 25.202(a)(1),⁵ in order to provide domestic service using earth stations that receive in the 10.95-

¹ See Intelsat North America LLC Application to Modify Authorization, File No. SAT-MOD-20050610-00120, (filed June 10, 2005) (*INTELSAT 905 Application*). The application was placed on Public Notice on July 1, 2005. See *Public Notice*, Policy Branch Information, Report No. SAT-00303 (July 1, 2005). No comments were filed.

² Intelsat was originally granted authority to operate INTELSAT 905 in 2000. See Application of Intelsat LLC, For Authority to Operate, and to Further Construct, Launch, and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit, *Memorandum Opinion, Order and Authorization*, 15 FCC Rcd 15460 (2000), *recon. denied*, 15 FCC Rcd 25234 (2000) (collectively "*Intelsat Licensing Orders*"). In 2002, Intelsat was authorized to operate the INTELSAT 905 satellite at 24.5° W.L. (335.5° E.L.) See Application of Intelsat LLC to Modify Authorization, File No. SAT-MOD-20020315-00037 (filed March 15, 2002) (stamp grant issued from Jennifer Gilson, Chief, Policy Branch, FCC to Intelsat, issued May 15, 2002, authorizing operation of INTELSAT 905 at 24.5° W.L.).

³ See *Intelsat Licensing Orders* 15 FCC Rcd 15460, 15516 (para. 143).

⁴ 47 C.F.R. § 2.106 footnote NG104 ("[t]he use of the bands 10.7-11.7 GHz (space-to-Earth) and 12.75-13.25 GHz (Earth-to-space) by the fixed-satellite service in the geostationary-satellite orbit shall be limited to international systems, *i.e.*, other than domestic systems.")

⁵ 47 C.F.R. § 25.202(a)(1) footnote 2 ("[u]se of this by geostationary satellite orbit satellite systems in the fixed-satellite service is limited to international systems; *i.e.*, other than domestic systems.")

11.2 GHz and 11.45-11.7 GHz bands ARE GRANTED as conditioned. We find that waiver of these rules would not undermine their purpose because the waiver involves only passive receive-only earth stations that are not capable of causing interference into fixed stations operating in the same frequency band. Furthermore, because Intelsat has agreed to accept any level of interference from fixed stations into its receive-only earth stations' operations in the extended Ku-band,⁶ FS operators would not be required to coordinate their station operations with the space station operator's receive-only earth stations' operations. Under these circumstances, we determine that an additional coordination burden is not placed upon FS operators and their ability to expand service in the future is not restricted in any manner. Grant here as conditioned is consistent with prior Commission precedent.⁷

- 2) Intelsat North America shall operate its earth stations in the 10.95-11.2 GHz and 11.45-11.7 GHz bands that provide domestic service on an unprotected, non-interference basis relative to fixed stations and, as such, Intelsat North America may not cause harmful interference to, or claim protection from, fixed stations to which frequencies in the 10.95-11.2 GHz and 11.45-11.7 GHz bands have either already assigned, or to which frequencies in the 10.95-11.2 GHz and 11.45-11.7 GHz bands may be assigned at a later date.
- 3) Intelsat North America is required to inform its customers, in writing, including end-users receiving service from resellers accessing capacity on the INTELSAT 905 satellite, that the service in the 10.95-11.2 GHz and 11.45-11.7 GHz bands with regards to domestic service is being provided on an uncoordinated basis, AND THAT the potential exists that future-licensed fixed stations may cause harmful interference to these unprotected earth stations
- 4) Intelsat North America is afforded thirty days from the date of release of this action to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.
- 5) This action is used pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section

⁶ See *Intelsat 905 Application*, Waiver Request at 3-4.

⁷ On a number of occasions, the Commission has previously authorized downlink of domestic service to customer receive-only earth stations in the 10.95-11.2 GHz 11.45-11.7 GHz band. PanAmSat Licensee Corp. Application for Authority to Use the Extended Ku-band Frequencies for Domestic Service, *Order and Authorization*, DA 05-2444, Sat. Div., Int'l Bur., (rel. Sept. 13, 2005); EchoStar KuX Corporation Application for Authority to Construct, Launch and Operate a Geostationary Satellite Using the Extended Ku-band Frequencies in the Fixed-Satellite Service at the 83° W.L. Orbital Location, *Order and Authorization*, 20 FCC Rcd 919, 921-22 (para. 9) (Sat. Div., Int'l Bur. 2004); EchoStar Satellite LLC Application for Authority to Construct, Launch and Operate a Geostationary Satellite Using the Extended Ku-band Frequencies in the Fixed-Satellite Service at the 109° W.L. Orbital Location, *Order and Authorization*, 20 FCC Rcd. 930 (Sat. Div., Int'l Bur. 2004); EchoStar KuX Corporation Application for Authority to Construct, Launch and Operate a Geostationary Satellite Using the Extended Ku-band Frequencies in the Fixed-Satellite Service at the 121° W.L. Orbital Location, *Order and Authorization*, 20 FCC Rcd 942 (Sat. Div., Int'l Bur. 2004).

1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the public notice indicating that this action was taken.

9-16. Name of Contact Representative

Name:	Susan H. Crandall	Phone Number:	202-944-7848
Company:	Intelsat Global Service Corporation	Fax Number:	202-944-7860
Street:	3400 International Drive, N.W.	E-Mail:	susan.crandall@intelsat.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20008-3006
Attention:	Susan H. Crandall	Relationship:	Legal Counsel

CLASSIFICATION OF FILING

17. Choose the button next to the classification that applies to this filing for both questions a. and b. Choose only one for 17a and only one for 17b.

- a1. Earth Station
- a2. Space Station

- (N/A) 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
- b5. Assignment of License or Registration
- 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
- (N/A) b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United States
- (N/A) b10. Other (Please specify)

17c. Is a fee submitted with this application?

- If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).
- Governmental Entity Noncommercial educational licensee
- Other (please explain):

17d.

Fee Classification ~~BFY~~ = Space Station Modification (Geostationary)

18. If this filing is in reference to an existing station, enter:

(a) Call sign of station:
S2409

19. If this filing is an amendment to a pending application enter both fields, if this filing is a modification please enter only the file number:

(a) Date pending application was filed:

(b) File number:

SATMOD2002031500037

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:	
<input checked="" type="checkbox"/> a. Fixed Satellite <input type="checkbox"/> b. Mobile Satellite <input type="checkbox"/> c. Radiodetermination Satellite <input type="checkbox"/> d. Earth Exploration Satellite <input type="checkbox"/> e. Direct to Home Fixed Satellite <input type="checkbox"/> f. Digital Audio Radio Service <input type="checkbox"/> g. Other (please specify)	
21. STATUS: Choose the button next to the applicable status. Choose only one. <input type="radio"/> Common Carrier <input checked="" type="radio"/> Non-Common Carrier	22. If earth station applicant, check all that apply. <input type="checkbox"/> Using U.S. licensed satellites <input type="checkbox"/> Using Non-U.S. licensed satellites
23. If applicant is providing INTERNATIONAL COMMON CARRIER service, see instructions regarding Sec. 214 filings. Choose one. Are these facilities: <input type="radio"/> Connected to a Public Switched Network <input type="radio"/> Not connected to a Public Switched Network <input checked="" type="radio"/> N/A	
24. FREQUENCY BAND(S): Place an 'X' in the box(es) next to all applicable frequency band(s). <input checked="" type="checkbox"/> a. C-Band (4/6 GHz) <input checked="" type="checkbox"/> b. Ku-Band (12/14 GHz) <input type="checkbox"/> c. Other (Please specify upper and lower frequencies in MHz.) Frequency Lower: Frequency Upper: (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.

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

26. TYPE OF EARTH STATION FACILITY:

- Transmit/Receive Transmit-Only Receive-Only N/A

"For Space Station applications, select N/A."

PURPOSE OF MODIFICATION

27. The purpose of this proposed modification is to: (Place an 'X' in the box(es) next to all that apply.)

- a — authorization to add new emission designator and related service
- b — authorization to change emission designator and related service
- c — authorization to increase EIRP and EIRP density
- d — authorization to replace antenna
- e — authorization to add antenna
- f — authorization to relocate fixed station
- g — authorization to change frequency(ies)
- h — authorization to add frequency
- i — authorization to add Points of Communication (satellites & countries)
- j — authorization to change Points of Communication (satellites & countries)
- k — authorization for facilities for which environmental assessment and radiation hazard reporting is required
- l — authorization to change orbit location
- m — authorization to perform fleet management
- n — authorization to extend milestones
- o — Other (Please specify)

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.

29. Is the applicant a foreign government or the representative of any foreign government?

Yes No

30. Is the applicant an alien or the representative of an alien?

Yes No N/A

31. Is the applicant a corporation organized under the laws of any foreign government?

Yes No N/A

32. Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record 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?

Yes No N/A

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 of record 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? Yes No N/A

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. Exhibit B

BASIC QUALIFICATIONS

35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules? Yes No
If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.

Exhibit A

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. Yes No

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.

Yes No

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

Yes No

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.

Yes No

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.

Exhibit D

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" for these purposes.

Yes No

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.

Yes No

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?

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.)

Intelsat North America LLC requests a waiver of footnote NG104 of the U.S. Table of Allocations and footnote 2 of Section 25.202(a)(1) to offer domestic service using INTELSAT 905 at 335.5 E.L. (24.5 W.L.).

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
Susan H. Crandall

46. Title of Person Signing
Asst. Gen. Counsel, Intelsat Global Serv. Corp.

—>

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).

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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.

Exhibit A
Response to Form 312, Question 35

Intelsat North America LLC Request for Waiver

Pursuant to Section 1.3 of the Commission's rules,¹ Intelsat North America LLC ("Intelsat") respectfully requests waivers of footnote NG 104 of the U.S. Table of Allocations² and footnote 2 of Section 25.202(a)(1) of the rules.³ Intelsat seeks these waivers in order to provide domestic service in the U.S. in extended Ku-bands 10.95-11.2 GHz and 11.45-11.70 GHz, on a non-interference basis, using the following satellites: INTELSAT 905, operating at 335.5° E.L. (24.5° W.L.), INTELSAT 707, operating at 307° E.L. (53° W.L.), INTELSAT 701, operating at 180° E.L. (180° W.L.), and INTELSAT 605, operating at 174° E.L. (186° W.L.). As explained more fully below, there is good cause to waive these requirements and doing so would be consistent with Commission precedent. Grant of this request will serve the public interest by making additional capacity available for communications services, without undermining the purpose of the Commission's rules.⁴

I. INTRODUCTION

The Commission has previously granted Intelsat licenses to operate the following satellites at their respective orbital locations: INTELSAT 905 at 335.5° E.L. (24.5° W.L.), INTELSAT 707 at 307° E.L. (53° W.L.), INTELSAT 701 at 180° E.L. (180° W.L.), and

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 2.106 fn. NG104.

³ 47 C.F.R. § 25.202(a)(1) fn. 2.

⁴ On May 27, 2005, the FCC approved the *pro forma* assignment of certain satellite licenses, including the licenses for INTELSAT 905, INTELSAT 707, INTELSAT 701, and INTELSAT 605, from Intelsat LLC to Intelsat North America LLC. See *Policy Branch Information, Actions Taken*, Report No. SAT-00294 (May 27, 2005) (Public Notice) (granting File Nos.: SAT-ASG-20050418-00084, SAT-ASG-20050418-00085).

INTELSAT 605 at 174° E.L. (186° W.L.).⁵ At Ku-band, these satellites operate in the uplink in the 14.0-14.5 GHz frequency band, and in the downlink in the 10.95-11.2 GHz, 11.45-11.7 GHz frequency bands. In addition, INTELSAT 701 and INTELSAT 707 also operate in the 11.7-11.95 GHz and 12.5-12.75 GHz (the latter over Regions 1 and 3) frequency bands.

The 10.95-11.2 GHz and 11.45-11.7 GHz bands are shared on a co-primary basis between the fixed satellite service ("FSS") and the fixed service ("FS"). Footnote NG104 of the Table of Allocations and footnote 2 of Section 25.202(a)(1) of the Commission's rules limit the use of the 10.95-11.2 GHz and 11.45-11.7 GHz frequency bands to "international systems."⁶ The Commission has interpreted this restriction to mean that these bands may be used only to provide international service.⁷ The purpose of NG 104 and footnote 2 of Section 25.202(a)(1) is to limit the number of FSS earth stations with which the co-primary FS would need to coordinate.⁸

Intelsat seeks a waiver of NG 104 and footnote 2 of Section 25.202(a)(1) in order to offer domestic services in the U.S. in the 10.95-11.2 GHz and 11.45-11.7 GHz

⁵ See *Application of Intelsat LLC to Modify Authorizations*, File No. SAT-MOD-20020315-00037 (filed Mar. 15, 2002)(stamp grant from J. Gilsonan, FCC to Intelsat issued May 15, 2002, authorizing operation of INTELSAT 905 at 24.5° W.L.); *Fleet Management Notice of Intelsat LLC of Modification of Authorization*, File No. SAT-MOD-20040726-00147 (filed July 26, 2004) and *Policy Branch Information Actions Taken*, Public Notice, Rept. No. SAT-00244, DA No. 04-3063 (Sept. 24, 2004) (authorizing operation of INTELSAT 707 at 53° W.L.); *Applications of Intelsat LLC for Authority to Operate, and to Further Construct, Launch, and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit*, Memorandum Opinion, Order, and Authorization, 15 FCC Rcd 15,460 (2000) (authorizing operation of INTELSAT 701 at 180° E.L.) ("Licensing Order"), recon. denied, 15 FCC Rcd 25,234 (2000) ("Licensing Reconsideration Order"); *Fleet Management Notice of Intelsat LLC of Modification of Authorization for INTELSAT 605*, File No. SAT-MOD-20050214-00037 (filed Feb. 14, 2005) and *Policy Branch Information Actions Taken*, Public Notice, Rept. No. SAT-00287, DA No. 05-1130 (Apr. 22, 2005) (authorizing operation of INTELSAT 605 at 174° E.L.).

⁶ See 47 C.F.R. § 2.106 fn. NG104; 47 C.F.R. § 25.202(a)(1) fn. 2.

⁷ See *Satellite Services*, 26 RR 2d 1257, 1263-65 (1973), and *GWARC Inquiry*, 70 F.C.C.2d 1193, 1252 (1978).

⁸ See *Satellite Services*, 26 RR 2d at 1263-65. See also *EchoStar KuX Corporation Application for Authority to Construct, Launch and Operate a Geostationary Satellite Using the Extended Ku-*

frequency bands using its INTELSAT 905 satellite, operating at 335.5° E.L. (24.5° W.L.), INTELSAT 707 satellite, operating at 307° E.L. (53° W.L.), INTELSAT 701 satellite, operating at 180° E.L. (180° W.L.), and INTELSAT 605 satellite, operating at 174° E.L. (186° W.L.). These downlink transmissions will be paired with uplink transmissions, respectively, in the 14.0-14.25 GHz and 14.25-14.5 GHz bands, which are not subject to the "international only" restriction of NG 104 and footnote 2 of Section 25.202(a)(1).⁹ Intelsat will provide these services only on a non-interference/non-protected basis, and therefore will not need to coordinate earth stations in the 10.95-11.2 GHz and 11.45-11.7 GHz bands with FS stations.

II. GOOD CAUSE EXISTS FOR A WAIVER

Waiver of the Commission's rules is warranted when "good cause" is shown.¹⁰ A waiver may be granted if the grant "would not undermine the policy objective of the rule in question and would otherwise serve the public interest."¹¹ A waiver of the Table of Allocations is generally granted "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."¹²

band Frequencies in the Fixed-Satellite Service at the 83° W.L. Orbital Location, Order and Authorization, DA 04-3162, ¶ 9 (Int'l Bur., Sept. 30, 2004) ("EchoStar 83° Waiver").

⁹ The 13.75-14.0 GHz band is subject to other restrictions that are unrelated to NG104 and footnote 2 of Section 25.201(a)(1). See U.S. Table of Allocations (47 C.F.R. § 2.106), footnotes 5.502, 5.503, 5.503A, US356, and US357.

¹⁰ 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

¹¹ *EchoStar 83° Waiver*, ¶ 12.

¹² See *The Boeing Company, Order and Authorization*, 16 FCC Rcd 22645, 22651 (Int'l Bur. & OET 2001); *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 (Int'l Bur. 1995) (authorizing MSS in the C-band); see also *Application of Motorola Satellite Communications, Inc. for Modification of License, Order and Authorization*, 11 FCC Rcd 13952, 13956 (Int'l Bur. 1996) (authorizing service to fixed terminals in bands allocated to the mobile-satellite service).

The Commission previously has determined that these criteria were satisfied in an identical waiver request by EchoStar.¹³ Specifically, the Bureau found that waiving NG 104 and footnote 2 of Section 25.202(a)(1) would not undermine the purpose of the rules if the party seeking a waiver: (1) will be utilizing earth stations that are receive-only in these bands and thus "not capable of causing interference into FS stations" operating in the bands; and (2) agrees to "accept any level of interference from FS stations" in these bands.¹⁴

Intelsat satisfies these criteria. The earth stations operating in the 10.95-11.2 GHz and 11.45- 1.7 GHz bands served by INTELSAT 905 at 335.5° E.L. (24.5° W.L.), INTELSAT 707 at 307° E.L. (53° W.L.), INTELSAT 701 at 180° E.L. (180° W.L.), and INTELSAT 605 at 174° E.L. (186° W.L.), like those to be used by EchoStar, will not transmit in these bands and Intelsat agrees to accept any level of interference into those earth stations from FS stations in these bands. Accordingly, the earth stations operating in these bands pose no interference concerns with respect to co-frequency FS stations.

Grant of Intelsat's waiver request, moreover, will have no impact on the potential for interference from the INTELSAT 905, INTELSAT 707, INTELSAT 701, and INTELSAT 605 satellites. The downlink transmissions of these satellites in the 10.95-11.2 GHz and 11.45-11.7 GHz bands already comply with the power flux density limits set out in the Commission's rules for operation over the U.S.,¹⁵ and Intelsat does not propose to alter any operational characteristics of these satellites following a grant of its waiver request.

¹³ See *EchoStar 83° Waiver*, ¶¶ 9-13, 27-30.

¹⁴ *Id.*, ¶ 13.

¹⁵ 47 C.F.R. § 25.208.

Intelsat also agrees to abide by the customer notification requirements that the Bureau imposed on EchoStar.¹⁶ Intelsat will inform its customers in writing, including any customers receiving end-user services from resellers accessing capacity on INTELSAT 905 at 335.5° E.L. (24.5° W.L.), INTELSAT 707 at 307° E.L. (53° W.L.), INTELSAT 701 at 180° E.L. (180° W.L.) and INTELSAT 605 at 174° E.L. (186° W.L.), of the potential for interference from FS operations in the 10.95-11.2 GHz and 11.45-11.70 GHz frequency bands.

Finally, a grant of Intelsat's waiver request will serve the public interest by expanding the range of services that Intelsat can provide to the public. In particular, a grant will enable Intelsat to make additional capacity available in the 10.95-11.2 GHz and 11.45-11.70 GHz bands for services to customers in the United States.

III. CONCLUSION

For the reasons stated herein, grant of Intelsat's waiver request will serve the public interest without undermining the purposes of the Commission's rules. Accordingly, and for good cause shown, Intelsat asks that the Commission grant this waiver request.

¹⁶ *EchoStar 83° Waiver*, ¶ 13.