

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FILED/ACCEPTED

MAY 20 2009

Federal Communications Commission
Office of the Secretary

In the Matter of

PanAmSat Licensee Corp.

Petition for Specific Authority Under Section
25.161(c) For C- and Ku-band Frequencies at
the Nominal 77° W.L. Orbital Location

PETITION FOR SPECIFIC AUTHORITY UNDER SECTION 25.161(C)

PanAmSat Licensee Corp. ("PanAmSat"), by its attorneys and pursuant to Section 25.161(c) of the rules of the Federal Communications Commission ("FCC or Commission"),¹ herein requests authority to retain its license to the C- and Ku-band frequencies at the nominal 77° W.L. orbital location which, of necessity, will be vacant for a reasonable period of time greater than 90 days. On April 21, 2009, a shorter than expected life span caused PanAmSat to de-orbit the Galaxy 4R satellite (call sign S2377) from the 76.85° W.L. orbital location.² Due to multiple unforeseen circumstances affecting the combined PanAmSat and Intelsat North

America LLC ("Intelsat") satellite constellations,³ neither PanAmSat nor Intelsat is able to deploy a satellite capable of providing C- and Ku-band service at the nominal 77° W.L. orbital

¹ 47 C.F.R. § 25.161(c).

² See PanAmSat Licensee Corp. Request for Special Temporary Authority to De-Orbit the Galaxy 4R Satellite, IBFS File No. SAT-STA-20090123-00008 (filed Jan. 23, 2009) (grant stamped with conditions on Mar. 25, 2009); Letter from Susan H. Crandall, Intelsat Corporation, to Marlene H. Dortch, FCC, Re: Galaxy 4R De-Orbit (filed Apr. 22, 2009) (notifying the Commission that de-orbiting of the Galaxy 4R satellite was completed on April 21, 2009).

³ Intelsat North America LLC is a sister company to, and under common ownership with, PanAmSat.

location until the relocation of the Galaxy 11 satellite (call sign S2253), currently expected to be in the first quarter of 2011. As demonstrated below, however, continuing PanAmSat's license in effect would serve the public interest and would not undermine the purpose of Section 25.161(c).

Section 25.161(c) of the Commission's rules provides that a license will automatically terminate upon "removal or modification of the facilities which renders the station not operational for more than 90 days, unless specific authority is requested."⁴ As permitted by the rule, Intelsat herein requests specific authority to leave the 77° W.L. orbital location vacant until the relocation of the Galaxy 11 satellite, currently expected to be in the first quarter of 2011. Following the launch of the Intelsat New Dawn satellite (call sign S2751), PanAmSat's Galaxy 11 satellite (call sign S2253), which is currently operating at 32.80° E.L., will be available for relocation to 77° W.L. By granting this Petition to accommodate unexpected health issues with several PanAmSat satellites, the Commission will not cause a lapse in service, and will permit PanAmSat a reasonable time to replace failed facilities.⁵

The temporary vacancy in the 77° W.L. C- and Ku-band orbital location was caused by the earlier than normal de-orbit of the Galaxy 4R satellite. As described in PanAmSat's application for Special Temporary Authority ("STA") to de-orbit, the Galaxy 4R satellite experienced unanticipated health issues that shortened its expected useful life.⁶ As a result, the

⁴ 47 C.F.R. § 25.161(c).

⁵ For the same reasons that grant of this petition is in the public interest, good cause exists for granting the requested authority even under the Commission's waiver standards. *See, e.g., PanAmSat Licensee Corp.*, 17 FCC Rcd 10,483, 10,492 (¶ 22) (Sat. Div. 2002) ("Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in question and would otherwise serve the public interest.").

⁶ *See PanAmSat Licensee Corp. Request for Special Temporary Authority to De-Orbit the Galaxy 4R Satellite*, IBFS File No. SAT-STA-20090123-00008 (filed Jan. 23, 2009).

satellite's nine year life span was significantly shorter than the expected fifteen or more years.⁷

Moreover, the de-orbiting of several other satellites, some unforeseen and others routine, precludes PanAmSat and Intelsat from re-deploying another satellite to the nominal 77° W.L. orbital location within 90 days from the date Galaxy 4R reached its end of life. PanAmSat's original deployment plan provided for the relocation of the SBS-6 satellite (call sign S2707) to the nominal 77° W.L. orbital location.⁸ However, on February 20, 2009, PanAmSat was required to de-orbit SBS-6 due to technical health issues.⁹ Within the last two years, Intelsat and PanAmSat have also de-orbited four other satellites, including the Intelsat 605 satellite which briefly operated at the nominal 77° W.L. orbital location a few years ago.¹⁰ The Intelsat 704 satellite (call sign S2397) is scheduled to be de-orbited in May 2009.¹¹

Additionally, satellites that were replaced were not viable options to relocate to 77° W.L., again, due to unforeseen circumstances and the need to ensure service continuity. Specifically, Galaxy 25, after being replaced by Galaxy 19, was redeployed in late 2008 to 93.1° W.L. in order to ensure continuity of service at that location given the health concerns related to Galaxy 26,

⁷ See *Amendment of the Comm'n's Space Station Licensing Rules and Policies*, Notice of Proposed Rulemaking and First Report and Order, 17 FCC Rcd 3847, ¶ 143 (2000) ("The useful lives of most GSO satellites today are longer than the current 10-year satellite license term.").

⁸ See *Modification of Authorization to Relocate SBS-6 from 80.90° W.L. to 76.85° W.L.*, IBFS File No. SAT-MOD-20081222-00236 (filed Dec. 22, 2008).

⁹ See *PanAmSat Licensee Corp. Request for Special Temporary Authority to De-Orbit the SBS-6 Satellite*, IBFS File No. SAT-STA-20090210-00020 (filed Feb. 10, 2009).

¹⁰ Intelsat 605 (call sign S2394) was de-orbited in February 2009. Marisat (call sign KS35) was de-orbited in October 2008. Galaxy 10R (call sign S2378) was de-orbited in June 2008. Intelsat 6B (call sign S2359) was de-orbited in March 2008.

¹¹ See *Intelsat North America LLC, Request for Special Temporary Authority to De-Orbit the Intelsat 704 Satellite*, IBFS File No. SAT-STA-20090212-00021 (filed Feb. 12, 2009) (grant stamped with conditions on May 13, 2009).

which had been operating at 93.0° W.L.¹² Galaxy 26 was subsequently relocated to 50.75° E.L. in order to satisfy an urgent demand for capacity by a U.S. Government customer seeking to ensure service continuity.¹³

During this same two-year time period, PanAmSat and Intelsat have made good faith efforts to replenish their satellite fleet. Since July 2007, Intelsat and PanAmSat have launched four satellites.¹⁴ The companies also plan to launch six more within the next two years.¹⁵ However, in order to ensure continuity of service at other locations and taking into account the ability to service 77° W.L. customers from 93.10° W.L., PanAmSat has determined that its customers will be best served by allocating these launches to other locations. Indeed, all customers that received services on Galaxy 4R prior to its de-orbit were transferred successfully to Galaxy 25 at 93.10° W.L. or to Horizons 2 at 74° W.L. Thus, no lapse in service will arise

¹² See Intelsat North America LLC, Application to Modify Authorization to Relocate Galaxy 25 to 93.10° W.L., IBFS File No. SAT-MOD-20080825-00159 (filed Aug. 25, 2008); *Policy Branch Information; Actions Taken*, Report No. SAT-00566, File No. SAT-MOD-20080825-00159 (Nov. 21, 2008) (Public Notice).

¹³ See Intelsat North America LLC, Request for Special Temporary Authority to Operate Galaxy 26 at 50.75° E.L., IBFS File No. SAT-STA-20090303-00030 (filed Mar. 3, 2009). This application was granted on March 16, 2009. *Policy Branch Information; Actions Taken*, Report No. SAT-00590, File No. SAT-STA-20090303-00030 (Mar. 20, 2009, effective Mar. 16, 2009) (Public Notice). See also Intelsat North America LLC, Extension of Special Temporary Authority to Operate Galaxy 26 at 50.75° E.L., IBFS File No. SAT-STA-20090505-00051 (filed May 5, 2009); Intelsat North America LLC, Application to Modify Authorization to Relocate Galaxy 26 to 50.75° E.L., IBFS File No. SAT-MOD-20090309-00034 (filed Mar. 9, 2009).

¹⁴ Galaxy 18 (call sign S2733) commenced service in June 2008. Horizons 2 (call sign S2423) commenced service in February 2008. Intelsat 11 (call sign S2237) commenced service in January 2008. Galaxy 17 (call sign S2715) commenced service in July 2007.

¹⁵ The satellites to be launched in the next two years are Intelsat 14 (call sign S2785), Intelsat 15 (call sign S2789), Intelsat 16 (call sign S2750) and Intelsat New Dawn (call sign S2751), plus Intelsat 17 and Intelsat 18, applications for which have not yet been filed.

from grant of this Petition.¹⁶

Grant of this Petition conforms to Commission precedent. The FCC has previously granted authority under Section 25.161(c) and allowed a licensee to vacate an orbital location for more than 90 days where—as here—the licensee demonstrated that no customers would be adversely affected.¹⁷ The Commission also has removed a continuity of service license condition—which is designed to protect customers just like Section 25.161(c)—and allowed an orbital location to remain vacant where the licensee needed to de-orbit a failing satellite.¹⁸

Moreover, the proposed vacancy of two years is reasonable for satellite orbital locations. Unlike earth stations licensed under Part 25 that typically can be purchased from manufacturers' shelves and installed within 90 days, replacing satellites takes much longer. Indeed, certain other of the Commission's rules recognize this distinction. For example, the FCC's milestones afford satellite operators approximately five years to fill an orbital location whereas earth stations must become operational within one year of license grant.¹⁹ In this case, grant of this Petition will ensure the restoration of facilities to the nominal 77° W.L. location years in advance of the date

¹⁶ See, e.g., *VisionStar Inc., Application for Modification of Authority to Construct, Launch and Operate a Ka-band Satellite Sys. in the Fixed Satellite Serv.*, Memorandum Opinion and Order, 19 FCC Rcd 14,820, 14,825 (¶ 12 n.34) (2004).

¹⁷ See *SES Americom, Application for Modification of the AMC-16 Fixed-Satellite Serv. Space Station to Temporarily Vacate the 85° W.L. Orbital Location and for Telemetry, Tracking and Control Operations during the Drift of the AMC-16 to and from the 118.75° W.L. Orbital Location*, Order and Authorization, 21 FCC Rcd 3430 (Int'l Bur. 2006) (granting authority under Section 25.161(c) to vacate the Ka-band frequencies at 85° W.L. for more than 90 days); *SES Americom, Application for Modification of AMC-16 Fixed Satellite Space Station License*, Memorandum Opinion and Order, 21 FCC Rcd 14,785 (Int'l Bu. 2006) (extending authority under Section 25.161(c) to leave the Ka-band frequencies at 85° W.L. vacant).

¹⁸ See *Skynet Satellite Corporation, Application for Modification of License Condition*, IBFS File No. SAT-MOD-20060306-00024 (grant stamp Dec. 11, 2007).


¹⁹ 47 C.F.R. §§ 25.164(a)(4) and 25.133(a)(1).

by which a newly licensed satellite could be constructed and launched. As a result, grant of this Petition is the most expedient means of ensuring satellite service to customers from the nominal 77° W.L. orbital location. Indeed, PanAmSat is today withdrawing a pending application to place Galaxy 11 at a different orbital location²⁰ in order to confirm the company's new plan to redeploy the satellite to 77° W.L. upon the successful launch of New Dawn. PanAmSat intends shortly to file a license modification application reflecting this planned redeployment.

For the reasons set forth herein, PanAmSat respectfully requests that the Commission grant this request for specific authority under Section 25.161(c) of the Commission's rules.

Respectfully submitted,

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²⁰ See Application to Modify Authorization for Galaxy 11 to Provide C-band Satellite Service at 84.9° W.L., IBFS File No. SAT-MOD-20080523-00113 (filed May 23, 2008).