

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	
)	
2006 Biennial Regulatory Review --)	IB Docket No. 06-154
Revision of Part 25)	
)	
Establishment of a Permitted List)	
Procedure for Ka-band Space Stations)	
)	

DECLARATORY ORDER

Adopted: January 21, 2010

Released: January 25, 2010

By the Commission:

I. INTRODUCTION

1. In this *Declaratory Order*, we establish procedures for issuing ALSAT licenses to earth stations operating in the Ka-band.¹ We also adopt a procedure for placing non-U.S.-licensed space stations operating in the Ka-band on a "Permitted List." This procedure is similar to the procedure used since 2003 to place non-U.S.-licensed space stations operating in the conventional C-band and Ku-band on a Permitted List for those frequency bands.² The new procedure will allow earth stations with "routine" Ka-band antennas to communicate with all U.S.-licensed satellites and with those non-U.S.-licensed satellites on the Ka-band Permitted List without additional regulatory approval. This will expedite our licensing of Ka-band earth stations and allow Ka-band services, including broadband services, to be more quickly and readily available to consumers.

¹ For purposes of this Order, we define the term "Ka-band" as the 18.3-18.8 GHz and 19.7-20.2 GHz (space-to-Earth), and the 28.35-28.6 GHz and 29.25-30.0 GHz (Earth-to-space) bands. Originally, "ALSAT" earth stations were those authorized to communicate with all U.S.-licensed satellites operating in the conventional C-band or Ku-band. Later, the Commission expanded the authority of "ALSAT" earth stations to communicate with all non-U.S.-licensed satellites operating in the conventional C-band or Ku-band that are included on the "Permitted List" of non-U.S.-licensed satellites authorized to serve the United States. ALSAT earth stations and the Permitted List are discussed in more detail in this Order below, and in Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, *First Order on Reconsideration*, IB Docket No. 96-111, 15 FCC Rcd 7207 (1999) (*DISCO II First Reconsideration Order*).

² The original procedure for making changes to the Permitted List was adopted in the 1999 *DISCO II First Reconsideration Order*, 15 FCC Rcd 7207. This procedure was revised in the *First Space Station Licensing Reform Order*, to be consistent with other revisions to the satellite licensing rules that were adopted in that Order. See Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10872-73 (paras. 299-302) (2003) (*First Space Station Licensing Reform Order*).

four degrees apart. Under the two-degree orbital spacing framework, the Commission assigns adjacent in-orbit GSO satellites to orbit locations two degrees apart in longitude. At the time it adopted the two-degree framework, the Commission also established technical rules to govern earth stations communicating with these satellites to ensure that their operations do not cause unacceptable interference to adjacent satellite systems.⁸

5. We “routinely” license conventional C-band and Ku-band earth stations that meet the two-degree orbital spacing technical requirements set forth in Part 25 of the Commission’s rules.⁹ In other words, if the earth station meets certain technical requirements,¹⁰ we grant the earth station application without conducting a further technical review.¹¹

6. We often refer to U.S. earth stations with routinely-authorized technical parameters as “ALSAT” earth stations. The satellites with which an earth station is authorized to access are referred to as “points of communication.” Originally, under an ALSAT earth station license, an earth station operator providing fixed-satellite service in the conventional C- and Ku-bands could access “all U.S.-licensed space stations” as points of communication without additional Commission action, provided that those communications fall within the same technical parameters and conditions established in the earth station license.¹² Later, in 1999, the Commission expanded this designation to authorize ALSAT earth station operators to communicate with satellites on the Permitted List, as explained further below.¹³

Order).

⁸ *Part 25 Earth Station Streamlining Fifth Report and Order*, 20 FCC Rcd at 5674 (para. 17); *Part 25 Earth Station Streamlining Sixth Report and Order*, 20 FCC Rcd at 5595-96 (para. 3). Those earth station technical requirements consist primarily of minimum antenna size and maximum power level limits. For a discussion of antenna size and its effect on antenna gain, see *Part 25 Earth Station Streamlining Sixth Report and Order*, 20 FCC Rcd at 5596 (paras. 4-5).

⁹ *Part 25 Earth Station Streamlining Fifth Report and Order*, 20 FCC Rcd at 5674 (para. 17); *Part 25 Earth Station Streamlining Sixth Report and Order*, 20 FCC Rcd at 5597 (para. 6). See also 47 C.F.R. Part 25.

¹⁰ See 47 C.F.R. §§ 25.134, 25.209, 25.211, 25.212. See also Routine Licensing of Earth Station in the 6 GHz and 14 GHz Bands Using Antennas Less than 9 Meters and 5 Meters in Diameter, respectively, for Both Full Transponder and Narrowband Transmissions, *Declaratory Order*, 2 FCC Rcd 2149 (Com. Car. Bur., 1987), cited in 47 C.F.R. § 25.134.

¹¹ *Part 25 Earth Station Streamlining Fifth Report and Order*, 20 FCC Rcd at 5674 (para. 17); *Part 25 Earth Station Streamlining Sixth Report and Order*, 20 FCC Rcd at 5597 (para. 6). For purposes of this Order, we define “routine” earth stations as those that meet specified technical requirements, and which can be licensed without further review. The Commission also grants “non-routine” earth station applications, but those applications require further review to ensure that they will not cause harmful interference in a two-degree spacing environment. See 47 C.F.R. § 25.220.

¹² See *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210-11 (para. 6).

¹³ *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7214 (para. 16). See also Intelsat North America LLC, Application for Authority to Modify Earth Station Authorization to Provide Launch and Early Orbit Phase (“LEOP”) Operations for Newly Launched Satellites, *Order and Authorization*, 21 FCC Rcd 14672, 14676-77 (para. 14) (Int’l Bur., Sat. Div., 2006); Inmarsat, Inc., Request to Streamline Licensing of L-band Mobile-Satellite Service Terminals Using Inmarsat Satellites as Points of Communication, *Order*, 23 FCC

permitted to communicate without seeking further regulatory approval, provided that those communications fall within the same technical parameters and conditions established in the earth station operator's original license.¹⁹ In the *DISCO II First Reconsideration Order*, the Commission also expanded the scope of ALSAT earth station licenses to permit access to any satellite on the Permitted List.²⁰

10. In the *DISCO II First Reconsideration Order*, the Commission limited the Permitted List to FSS satellites operating in the conventional C-band and Ku-band.²¹ In doing so, the Commission noted that there was an established operating environment for these systems and that, therefore, it was possible to maintain acceptable levels of interference to other systems when a licensee offering services switched from one satellite to another.²² The Commission further stated that the operating environment for other more recently established services, such as the Ka-band, was continuing to evolve. Consequently, the Commission concluded that allowing Ka-band earth station operators to switch from one satellite to another without prior Commission authorization could cause unacceptable levels of interference to other Ka-band operations.²³ In 2000, however, when redesignating and reallocating spectrum for Ka-band earth-to-space communications, the Commission adopted routine licensing parameters for Ka-band earth stations.²⁴

III. DISCUSSION

11. The Commission's rules now include standardized technical requirements for Ka-band earth stations, comparable to the "routine" technical requirements for earth stations operating in the conventional C-band and Ku-band.²⁵ These processing standards were not in place for Ka-band satellites when the Commission excluded Ka-band satellites from the Permitted List in the *DISCO II First Reconsideration Order*.²⁶ The Bureau has licensed many Ka-band

¹⁹ *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7214-16 (paras. 16-20). The Permitted List is maintained on the Commission's website, and is also available via fax or e-mail. *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7215-16 (para. 19).

²⁰ *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7215-16 (para. 19). The *DISCO II First Reconsideration Order* also allowed the operators of in-orbit non-U.S. satellites offering fixed-satellite service to request authority to provide space segment capacity service to licensed earth stations in the United States. Under *DISCO II*, this request could be made only by an earth station operator.

²¹ *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210-11 (para. 6).

²² *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210 n.19.

²³ *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210 n.19.

²⁴ See Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use, *Report and Order*, IB Docket No. 98-172, 15 FCC Rcd 13430, 13474-74 (para. 90) (2000) (*18 GHz Order*); 47 C.F.R. § 25.138.

²⁵ Routine technical requirements are designed to limit the potential for routinely licensed earth stations to cause harmful interference to other licensed earth stations.

²⁶ *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210 n.19.

non-U.S.-licensed Ka-band satellites to the Ka-band Permitted List upon request, once we authorize that satellite to provide service in the United States. The Ka-band Permitted List will serve the same function as the Permitted List for conventional C-band and Ku-band space stations.³²

13. The procedure we adopt for the Ka-band Permitted List here is similar to the one established in the *DISCO II First Reconsideration Order* for conventional C-band and Ku-band space stations. Non-U.S.-licensed Ka-band satellite operators requesting us to place their satellites on the Ka-band Permitted List must file their requests to be added to the Ka-band Permitted List in the form of a petition for declaratory ruling.³³ Those petitions must include a completed Schedule S for the non-U.S.-licensed satellite, all the other technical information required by Section 25.114 of the Commission's rules,³⁴ and sufficient information to enable the Bureau to conduct a *DISCO II* analysis where necessary.³⁵ The Commission will place petitions for declaratory ruling on public notice, provided that they are substantially complete with respect to the required information.³⁶ The procedure for amending Ka-band petitions for declaratory ruling and modifying Ka-band permitted list entries will be the same as the procedures for conventional C-band and Ku-band Permitted List amendments and modifications.³⁷ By these actions, we will expedite our licensing of Ka-band earth stations.³⁸

³² The Commission's rules currently define "Permitted List" as limited to the conventional C-Band and conventional Ku-band. See 47 C.F.R. § 25.201.

³³ This is consistent with the *Telesat Order*, 17 FCC Rcd 25287.

³⁴ 47 C.F.R. § 25.114.

³⁵ The *DISCO II* analysis considers (1) the effect on competition in the United States, (2) eligibility and operating (e.g., technical) requirements, (3) spectrum availability, (4) and national security, law enforcement, foreign policy, and trade concerns.

³⁶ See Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10872-73 (paras. 299-302) (2003) (*First Space Station Licensing Reform Order*) (information requirements for petitions for declaratory ruling the same as those for U.S. satellite license application). See also *First Space Station Licensing Reform Order*, 18 FCC Rcd at 10852 (para. 244) (discussion of "substantially complete" standard for U.S. satellite license application).

³⁷ Specifically, for amendments, the petitioner will be required to submit another petition for declaratory ruling incorporating the proposed amendment with additional schedules and technical information, as appropriate. See 47 C.F.R. § 25.137(e). Operators of non-U.S.-licensed satellites on the Ka-band Permitted List can modify their U.S. operations by providing all the information required by U.S. licensees requesting modifications to their operations. See 47 C.F.R. § 25.137(f), citing 47 C.F.R. §§ 25.117(d); 25.118(e). See also *First Space Station Licensing Reform Order*, 18 FCC Rcd at 10878-79 (paras. 319-20).

³⁸ On April 22, 2009, a group calling itself the "Ka-band Streamlining Coalition" filed a petition for rulemaking asking the Commission to start a rulemaking proceeding to consider adopting rule revisions that would have the same substantive effect as this Order that we adopt today. We dismiss that petition as moot. The members of the Ka-band Streamlining Coalition are the DIRECTV Group, Inc., ICO Global Communications, Intelsat Ltd., Loral Space and Communications, Inc., ManSat LLC; Northrop Grumman Corporation; Telesat; SES Americom, Inc.; and WildBlue Communications, Inc.

20. IT IS FURTHER ORDERED that this Declaratory Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary