

## Request to Extend or Waive Milestone Date

Viasat, Inc. (“Viasat”) is authorized to serve the United States using ViaSat-3, a Ka-band GSO FSS satellite at 88.9° W.L.<sup>1</sup> ViaSat-3 is currently subject to a launch and operation milestone of December 31, 2021.<sup>2</sup> Viasat requests that the Commission extend or waive the milestone until October 31, 2022 to allow Viasat to place ViaSat-3 into service while accounting for delays caused by the COVID-19 pandemic.

As detailed below, Viasat has now completed construction of the ViaSat-3 payload and delivered it to Boeing, where it has now been integrated with the satellite bus (which Boeing is providing). And Viasat has expended about 89 percent of total construction costs to date, and expects to expend about 93 percent of total construction costs by the end of this year. Viasat has also secured a launch slot and taken significant steps towards deploying the ground infrastructure for the ViaSat-3 network.

Viasat could not have anticipated the COVID-19 pandemic, which has resulted in lockdowns and restrictions that have disrupted virtually all aspects of daily life for most Americans. As the Commission has already recognized, the pandemic has disrupted supply chains, prevented effective use of human resources, and otherwise led to construction and delivery delays resulting from circumstances outside of an operator’s control.<sup>3</sup> The ViaSat-3 program has been impacted by these adverse effects—even though Viasat has worked diligently to complete construction of ViaSat-3 and mitigate the impacts of the pandemic wherever possible.

As a result, Viasat requires additional time to launch ViaSat-3 and place it into operation. As detailed below, these circumstances easily satisfy the requirements of Section 25.117(e) of the Commission’s rules.<sup>4</sup> Accordingly, Viasat respectfully requests that the Commission grant the requested extension.<sup>5</sup>

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<sup>1</sup> The ViaSat-3-class satellite at 88.9° W.L. will also include a VIASAT-89US, a separately authorized payload with a launch and operation milestone of May 27, 2025. *See* IBFS File No. SAT-LOA-20190617-00048, Call Sign S3050 (granted May 27, 2020).

<sup>2</sup> *Viasat, Inc., Application for Modification of Market Access Grant and for Extension or Waiver of Milestone Date*, IBFS File No. SAT-MOD-20190617-00047, Call Sign S2917, Order and Declaratory Ruling, 35 FCC Rcd 5416 (IB 2020) (“*Extension Order*”).

<sup>3</sup> *Guidance for Stations in Phase 9 of the Post-Incentive Auction Transition as a Result of the Novel Coronavirus (COVID-19) Pandemic*, 35 FCC Rcd 2720 (IATF & MB 2020).

<sup>4</sup> 47 C.F.R. § 25.117(e).

<sup>5</sup> In the alternative, the Commission could waive the ViaSat-3 launch and operation milestone deadline for good cause shown. *See* 47 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990). Good cause exists given the special circumstances created by the COVID-19 pandemic, and the fact that deviation from the general rule would serve the public interest without undermining the purpose of the milestone rules, for the reasons discussed herein.

## I. THE COVID-19 PANDEMIC HAS CREATED “UNFORESEEABLE CIRCUMSTANCES” BEYOND VIASAT’S CONTROL

Under Section 25.117(e), a satellite milestone extension may be granted when “additional time is required due to unforeseeable circumstances beyond the applicant’s control . . . .”<sup>6</sup> The COVID-19 pandemic has clearly created such circumstances.

The Commission has recognized the extraordinary nature of the COVID-19 pandemic in a wide range of contexts, and that it has caused delays in the deployment of communications networks and hindered timely compliance with Commission requirements—without any fault on the part of the network operator. Early in the pandemic, the Commission specifically acknowledged the likelihood that relief would be needed for “supply chain delays and other construction and equipment delivery delays that may occur as a result of COVID-19 and the declared state of national emergency.”<sup>7</sup> The Commission continues to grant waivers and other forms of relief to address such delays,<sup>8</sup> and recognized last month that “the impetus behind granting [such] waiver[s]” based on impacts from the COVID-19 pandemic “remains ongoing, even though the situation in the United States has improved.”<sup>9</sup>

The COVID-19 pandemic has delayed the completion of ViaSat-3 in significant respects. Among other things, the pandemic has impeded construction progress by making critical personnel unavailable at Viasat’s manufacturing facility (as the result of illness and/or precautionary measures necessary to prevent potential contagion). The pandemic has also had similar impacts on Viasat’s vendors and suppliers, causing significant disruption to the ViaSat-3 supply chain. For example, Viasat has experienced delays in the delivery of critical components, which in turn have prevented Viasat from completing key steps in the payload assembly process. These impacts account for months of delay in the aggregate.

The COVID-19 pandemic has also had significant impacts on Boeing and its ability to complete the integration of the payload module (supplied by Viasat) and the Boeing-supplied bus module in a timely fashion. Among other things, the aforementioned delays in Viasat’s payload

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<sup>6</sup> 47 C.F.R. § 25.117(e)(1).

<sup>7</sup> *Waiver of FCC Rule Sections 1.946 (c) and (d) for Wireless Site-Based and Mobile-Only System*, 35 FCC Rcd 3536, at ¶ 2 (2020) (extending wireless construction deadlines based on disruptions caused by COVID-19).

<sup>8</sup> See, e.g., *Request for Waiver by the Schools, Health & Libraries Broadband (SHLB) Coalition*, CC Docket No. 02-6, DA 21-726, at ¶ 4 (rel. June 21, 2021) (recognizing that “widespread delays in the receipt of ‘communications equipment of all kinds . . .’ is causing delays in network construction . . . [and] in construction projects across the country.”); see also, e.g., *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, DA 21-760 (rel. June 28, 2021) (further extending COVID-related waivers of Lifeline program rules initially granted in early 2020 through at least September 30, 2021).

<sup>9</sup> See *Wireline Competition Bureau Seeks Comment on Extending Waiver of Letter of Credit Rules for Connect America Fund Phase II Auction (Auction 903) and Rural Broadband Experiments Support Recipients*, Public Notice, DA 21-794, at 1 (rel. July 6, 2021).

manufacturing process have disrupted Boeing’s work plan and forced it to complete that integration with more limited staffing (due to other projects being performed in parallel).

Notably, the ViaSat-3 program has experienced these significant impacts despite Viasat’s considerable efforts to mitigate the effects of the COVID-19 pandemic on its construction and deployment plans. Among other things, Viasat has reallocated work wherever possible to minimize the impacts of key employees becoming unavailable as the result of illness or precautionary health measures. Viasat has also added shifts for personnel as needed. In addition, Viasat has altered work plans and schedules in order to minimize disruptions to critical path items. Viasat has also worked closely with its vendors and suppliers to mitigate the impact of the pandemic on their operations. Viasat has incurred significant additional expenses as a result of these efforts, both as the result of direct costs and resulting process inefficiencies.

These extraordinary efforts explain why Viasat has been able to make as much progress as it has—*e.g.*, completing construction of the ViaSat-3 payload. Nevertheless, as a result of the COVID-19 pandemic, additional time is required. An extension of the launch and operation milestone until October 31, 2022 would allow Viasat to deploy the satellite and place it into service.

## **II. “UNIQUE AND OVERRIDING PUBLIC INTEREST CONSIDERATIONS” ALSO JUSTIFY THE REQUESTED EXTENSION**

Section 25.117(e) of the Commission’s rules also allows extension of a satellite milestone based on “unique and overriding public interest concerns that justify an extension.”<sup>10</sup>

In modifying and establishing the December 31, 2021 launch and operation milestone for ViaSat-3, the Commission credited Viasat’s “substantial expenditures” in connection with the satellite as evidence of its diligent efforts to place the satellite into service.<sup>11</sup> In the past year, Viasat has continued to expend significant resources on satellite-related construction costs. Indeed, Viasat has now expended approximately 89 percent of total construction costs for ViaSat-3. Furthermore, Viasat expects to expend about 93 percent of total construction costs by the end of this year. Viasat has also expended more than 70 percent of launch-related costs for the satellite.

The Commission also credited Viasat’s “concrete progress toward completion of satellite construction.”<sup>12</sup> In the past year, this progress has continued. As noted above, Viasat has now completed construction of the ViaSat-3 payload and delivered it to Boeing for integration into the satellite bus that Boeing is providing. Viasat has also made substantial progress with respect to the ground network for ViaSat-3. In particular, Viasat has completed construction of two large telemetry, tracking and control (“TT&C”) sites, and made very significant progress with respect to the satellite access nodes (“SANs”) that will be deployed across the United States. Among other things, Viasat has obtained access to real estate for these SAN sites, conducted

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<sup>10</sup> 47 C.F.R. § 25.117(e)(2).

<sup>11</sup> *Extension Order* ¶ 8.

<sup>12</sup> *Id.*

extensive engineering work, and successfully completed terrestrial coordination for almost all of the SAN locations that will be utilized shortly after ViaSat-3 is brought into service—all of which are resource-intensive activities. Viasat also has filed earth station applications for those sites.

In addition, the Commission previously found that Viasat was “willing and able” to place ViaSat-3 into service such that there could be no legitimate warehousing concerns.<sup>13</sup> Viasat’s incentives to complete construction of the satellite and commence operations as soon as possible are even stronger today given the even more advanced state of ViaSat-3’s construction and increased financial investment in its completion.

At the same time, over the past year the COVID-19 pandemic has underscored the importance of deploying robust networks delivering high-speed broadband connectivity for remote work, education, and health care.<sup>14</sup> ViaSat-3 will deliver that critical connectivity. Indeed, the advanced technology and capabilities of ViaSat-3 are key to bridging the digital divide through increased availability and affordability of high-quality, high-speed connectivity, including for unserved and underserved communities.

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<sup>13</sup> *Id.* ¶ 11.

<sup>14</sup> Statement of Jessica Rosenworcel before the Senate Committee on Commerce, Science, and Transportation, “Oversight of the Federal Communications Commission,” at 4 (Jun. 24, 2020), *available at* <https://docs.fcc.gov/public/attachments/DOC-365132A1.pdf> (“If there is one thing this crisis is demonstrating, it’s the value of faster and more robust networks.”).

**CERTIFICATION**

I, David Abrahamian, hereby make the following certifications to the Federal Communications Commission.

1. I am Vice President, Satellite Systems of Viasat, Inc.
2. The factual information contained in the foregoing Request to Extend or Waive Milestone Date is true and correct to the best of my knowledge, information and belief.

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/s/  
David Abrahamian

Executed August 25, 2021