

S2591 SAT-MPL-20110923-00187 IB2011004377
 New Skies Satellites B.V.
 NSS-806



File # SAT-MPL-20110923-00187

Call Sign S2591 Grant Date 06/28/12
 (or other identifier)

Term Dates
 From 06/28/12 To: _____

Approved by OMB
 3060-0678

Date & Time Filed: Sep 23 2011 7:09:23:693PM
 File Number: SAT-MPL-20110923-00187

Approved: Stephen J. Duall
 Stephen J. Duall
 Chief, Satellite Policy Branch

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:
 NSS-806 (S2591) Mod – DTH and Repoint

1-8. Legal Name of Applicant

Name:	New Skies Satellites B.V.	Phone Number:	202-478-7183
DBA Name:		Fax Number:	202-478-7101
Street:	1129 20th St. NW Suite 1000	E-Mail:	Joslyn.Read@ses.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20036 -
Attention:	Ms Joslyn Read		

New Skies Satellites B.V.
IBFS File No. SAT-MPL-20110923-00187
Call Sign S2591
Attachment to Grant

The petition of New Skies Satellites B.V., IBFS File No. SAT-MPL-20110923-00187, to modify the Permitted Space Station List (Permitted List) entry for the NSS-806 space station (Call Sign 2591) at the 40.5° W.L. orbital location to include the provision of direct-to-home (DTH) Fixed-Satellite Service (FSS) IS GRANTED.¹ NSS-806 is licensed by the Administration of the Netherlands. Specifically, New Skies is granted U.S. market access to use NSS-806 at 40.5° W.L. to provide DTH FSS in the 3700-4200 MHz (space-to-Earth), 5925-6425 MHz (Earth-to-space), 11.70-12.20 GHz (space-to-Earth), and 14.0-14.50 GHz (Earth-to-space) frequency bands within the United States and between the United States and the Netherlands and other European Union member states, Mexico, Brazil, the Netherlands Antilles, Guatemala, Honduras, Nicaragua, Bermuda, the British Virgin Islands, and the Cayman Islands. Communications between U.S.-licensed earth stations and the NSS-806 space station must be in accordance with the terms, conditions, and technical specifications contained in its application, the Federal Communications Commission's rules not waived herein, and the following conditions:

1. Operations of the NSS-806 satellite must be in accordance with the conditions contained in the original grant of U.S. market access.²
2. NSS-806 may not provide Direct Broadcast Satellite (DBS) or Digital Audio Radio Service (DARS) to, from, or within the United States.
3. Communications between U.S.-licensed earth stations and the NSS-806 space station shall comply with all existing and future space station coordination agreements reached between the Netherlands and other administrations.
4. NSS-806 must be maintained within an east-west longitudinal station-keeping tolerance of ± 0.05 degrees of the 40.5° W.L. orbital location.
5. New Skies' request for waivers of Sections 25.114(d)(14)(ii) and 25.283(c) of the Commission's rules, 47 C.F.R. §§ 25.114(d)(14)(ii) and 25.283(c), is granted. Sections 25.114(d)(14)(ii) and 25.283(c) specify that space stations must discharge all stored energy sources at end-of-life of the space station. NSS-806 is a Lockheed Martin 7000 model spacecraft that is not designed to vent all of its pressurized systems. Following the launch of the spacecraft in February 1998, the oxidizer tank was sealed using a pyrotechnic valve at the end of transfer orbit operations. As a result, New Skies states that the oxidizer tank will retain residual pressure at end of life. New Skies states that the oxidizer tank has a volume of 643 liters and the residual oxidizer in the tank will have a mass of 20 kg. The tank also contains approximately 1.76 kg of helium and has a pressure of 18.4 bars at 21° Celsius. The information submitted by New Skies is not sufficient to support a finding that the underlying purpose of Section 25.283(c) is served by sealing the oxidizer tanks without completely venting them. Nevertheless, we grant the requested waivers of Sections 25.114(d)(14)(ii) and 25.283(c). NSS-806 was launched and the

¹ The petition was placed on Public Notice as accepted for filing on November 4, 2011, and a correction was made in the November 10, 2011 Public Notice. *Policy Branch Information, Satellite Space Applications Accepted for Filing*, Public Notice, Report No. SAT-00819 (Nov. 4, 2011); *Policy Branch Information, Satellite Space Applications Accepted for Filing*, Public Notice, Report No. SAT-00821 (Nov. 10, 2011). On June 21, 2012, New Skies withdrew its request to modify the Permitted List entry for NSS-806 to permit re-pointing of the spacecraft's steerable beam, which was part of New Skies' original petition. Letter from Karis A. Hastings, Counsel for New Skies Satellite B.V., to Marlene H. Dortch, Secretary, FCC, dated June 21, 2012. No grant of market access for re-pointing of the beams on NSS-806 is granted.


² *New Skies Satellites, N.V.*, DA 01-513, Order, 16 FCC Rcd 7482 (Sat. Div., rel. Mar. 29, 2001).

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oxidizer tank was sealed before Section 25.283(c) was adopted. Furthermore, compliance with Section 25.283(c) would require direct retrieval of the spacecraft or launching a servicing mission to the spacecraft, which is not practicable at this time. This action is without prejudice to future licensing decisions in connection with other spacecraft of the same manufacturing series.

6. New Skies is afforded 30 days from the date of release of this action to decline this grant of market access as conditioned. Failure to respond within this period will constitute formal acceptance of the grant as conditioned.

7. This action is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective immediately. Petitions for reconsideration under Section 1.106 of the Commission's rules or applications for reconsideration under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the public notice indicating that this action was taken.

 GRANTED* International Bureau *with conditions	File # <u>SAT-MPL-20110923-00187</u>
	Call Sign <u>S2591</u> Grant Date <u>06/28/12</u> (or other identifier)
	Term Dates From <u>06/28/12</u> To: _____
	Approved: <u><i>Stephen J. Duall</i></u> Stephen J. Duall Chief, Satellite Policy Branch

9-16. Name of Contact Representative

Name:	Karis A. Hastings	Phone Number:	202-599-0975
Company:	SatCom Law LLC	Fax Number:	
Street:	1317 F St. NW Suite 400	E-Mail:	karis@satcomlaw.com
City:	Washington	State:	DC
Country:	USA	Zipcode:	20004-
Attention:	Karis A. Hastings	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
- b3. Amendment to a Pending Application
- b4. Modification of License or Registration
- b5. Assignment of License or Registration
- b6. Transfer of Control of License or Registration
- 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)
- (N/A) b11. Application for Earth Station to Access a Non-U.S. satellite Not Currently Authorized to Provide the Proposed Service in the Proposed Frequencies in the United States
- (N/A) b12. Application for Database Entry
- b13. Amendment to a Pending Database Entry Application
- b14. Modification of Database Entry

<p>17c. Is a fee submitted with this application?</p> <p><input type="radio"/> If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114).</p> <p><input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial educational licensee</p> <p><input checked="" type="radio"/> Other (please explain): No fee applies to modifications to permitted list applications</p>	
<p>17d.</p> <p>Fee Classification</p>	
<p>18. If this filing is in reference to an existing station, enter:</p> <p>(a) Call sign of station: S2591</p>	<p>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:</p> <p>(a) Date pending application was filed:</p> <p>(b) File number: SATPDR2000103100146</p>

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:

- a. Fixed Satellite
- b. Mobile Satellite
- c. Radiodetermination Satellite
- d. Earth Exploration Satellite
- e. Direct to Home Fixed Satellite
- f. Digital Audio Radio Service
- g. Other (please specify)

21. STATUS: Choose the button next to the applicable status. Choose only one.

- Common Carrier Non-Common Carrier

22. If earth station applicant, check all that apply.

- Using U.S. licensed satellites
 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:

- Connected to a Public Switched Network Not connected to a Public Switched Network N/A

24. FREQUENCY BAND(S): Place an 'X' in the box(es) next to all applicable frequency band(s).

- a. C-Band (4/6 GHz) b. Ku-Band (12/14 GHz)
 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.	<input type="radio"/> Yes <input checked="" type="radio"/> No
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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?	<input type="radio"/> Yes <input checked="" type="radio"/> No
30. Is the applicant an alien or the representative of an alien?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
31. Is the applicant a corporation organized under the laws of any foreign government?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> 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?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> 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.

BASIC QUALIFICATIONS

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

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

<p>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.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>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</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>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.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
<p>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 A</p>	

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? The Netherlands

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.)

New Skies Satellites B.V. requests modification of the terms of U.S. market access for NSS-806 to add authority for direct-to-home service and authorize flexibility to repoint the satellite's steerable Ku-band spot beam.

Attachment 1

43a. Geographic Service Rule Certification

By selecting A, the undersigned certifies that the applicant is not subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25.

A

By selecting B, the undersigned certifies that the applicant is subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25 and will comply with such requirements.

B

By selecting C, the undersigned certifies that the applicant is subject to the geographic service or geographic coverage requirements specified in 47 C.F.R. Part 25 and will not comply with such requirements because it is not feasible as a technical matter to do so, or that, while technically feasible, such services would require so many compromises in satellite design and operation as to make it economically unreasonable. A narrative description and technical analysis demonstrating this claim are attached.

C

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
Joslyn R. Read

-->

46. Title of Person Signing
Vice President, Regulatory Affairs

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).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

The public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0678), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND COMPLETED FORMS TO THIS ADDRESS.

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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.



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June 21, 2012

By Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Application to Modify the Terms of Market Access for NSS-806
File No. SAT-MPL-20110923-00187 (Call Sign S2591)**

Dear Ms. Dortch:

New Skies Satellites B.V. (doing business as "SES"), by its attorney and pursuant to Section 1.65 of the Commission's rules, 47 C.F.R. § 1.65, hereby updates the record regarding the above-referenced modification (the "NSS-806 Modification"). Specifically, SES advises the Commission that SES no longer plans to execute the two repointings of the steerable NSS-806 beam described in the NSS-806 Modification and therefore withdraws its repointing request. In addition, SES corrects an error in the technical information regarding one of the beacons on NSS-806.

The NSS-806 Modification requested two changes in the terms pursuant to which the Netherlands-licensed spacecraft is authorized to serve the U.S. market. First, SES requested the addition of authority for DTH services within the U.S. and between the U.S. and specified route markets.¹ Second, SES asked for authority to repoint the spacecraft's steerable conventional Ku-band spot beam to better meet customer requirements.²

With respect to the latter request, SES explained that it had plans "to re-orient the [steerable] beam to two different pointings over the United States and the Caribbean in order to facilitate the transfer of traffic from another satellite to NSS-806 and enhance coverage of Puerto Rico."³ Due to a subsequent change in its business plans, SES no longer intends to perform these two repointings. Accordingly, SES withdraws its request for authority to repoint the NSS-806

¹ See NSS-806 Modification, Narrative at 1.

² *Id.*

³ See *id.* at 8. SES included contour maps showing the coverage of the steerable beam for each of these two repointings. See *id.*, Technical Appendix at Figures B-3 through B-6.

steerable beam. In the event that future customer demand requires it, SES will seek any necessary authority to repoint the NSS-806 steerable beam in a later FCC application.

SES also recently became aware of a minor error in the technical description in the NSS-806 Modification of one of the beacons. Specifically, in Table 5-6 of the Technical Appendix, the tracking beacon designated BC1 at 3950.0 MHz was incorrectly identified as having vertical polarization.⁴ In fact, that beacon has linear polarization that is rotated by 45 degrees relative to the equatorial plane.

The beacon's polarization does not conform to the requirements of Section 25.210(a)(1). The Commission has already granted a waiver of that rule for NSS-806,⁵ and the NSS-806 Modification seeks continued application of that waiver.⁶ SES asks that the Commission extend the waiver to the BC1 beacon as well, consistent with Commission precedent.⁷

Accordingly, SES respectfully requests that the Commission update its records regarding the NSS-806 Modification to reflect the decision not to proceed with repointing the steerable beam and to correct the beacon polarization information. SES withdraws its request for repointing authority for the NSS-806 steerable beam and asks that the Commission promptly grant the DTH authority sought in the NSS-806 Modification.

Please address any questions regarding this matter to the undersigned.

Respectfully submitted,

/s/ Karis A. Hastings

Karis A. Hastings

Counsel for New Skies Satellites B.V.
karis@satcomlaw.com

cc: Stephen Duall
Kathryn Medley
Sylvia Lam

⁴ See *id.*, Technical Appendix at 6-7, Table 5-6.

⁵ See *New Skies Satellites, N.V.*, Order, DA 01-513, 16 FCC Rcd. 7482 (Sat. Div. 2001).

⁶ See NSS-806 Modification, Narrative at 9-10.

⁷ See *USAsia Telecom, LLC*, 15 FCC Rcd 16582 (Sat. Div. 2000) at ¶¶ 12-13 (waiving Section 25.210(a) to authorize communications with the JCSAT-3 satellite, which has C-band linear polarization rotated by 22 degrees relative to the equatorial plane).