

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

In the Matter of )  
 ) File N° \_\_\_\_\_  
HISPAMAR SATÉLITES, S.A. )  
 )  
Modified Petition for Declaratory Ruling to Add )  
AMAZONAS-3 Satellite at 61° W L to the )  
Commission's Ka-band )  
Permitted Space Station List )

**To: International Bureau**

**MODIFICATION OF PETITION FOR DECLARATORY RULING**

On 14 March 2013 the Commission Granted in part the HISPAMAR SATELLITES PETITION FOR DECLARATORY RULING, File # SAT-PPL-20121018-00183, Call Sign S2886. However, in a letter dated 14 March 2013 the Commission dismissed that portion of the Petition asking it to add the Amazonas-3 space station to the Permitted List for the Ka band frequencies. The stated reason for this action as set forth in the letter is, *“In a 2004 Public Notice, the International Bureau provided a list of orbital locations that are not available for commercial space station operations in the United States in the 17.8-20.2 GHz frequency band (Ka band) because the Federal Government has authorized a Ka-band satellite to operate at that location [the List includes 60W]. The Public Notice further states that orbital locations that are less than two degrees away from a location listed as unavailable are also unavailable for U.S. operations. The Public Notice lists the 60W orbit position as unavailable.”*

Subsequently, in a Public Notice, 15 March 2013 information was provided stating that, *“The National Telecommunications and Information Administration recently informed the Commission that the Federal Government no longer intends to use these Ka-band frequencies at 60 W.L. and 69 W.L. orbital locations. Consequently, the 17.8-20.2 GHz frequencies at 60 W.L. and 69 W.L. orbital locations are now available for assignment, pursuant to the Commission's first-come, first-serve licensing process effective 2:00PM EDT on Tuesday, March 19, 2013. At that time, applicants may file applications for new space stations or request for market access by non-U.S. licensed space stations, modifications to licensed space stations or amendments to pending applications.”*

The purpose of the present Modification is in response to this development. **HISPAMAR SATÉLITES, S.A. (hereinafter HISPAMAR SATÉLITES) by representative and pursuant to Sections 25.114 and 25.137 of the Commission's rules as amended and the DISCO II First Reconsideration Order, hereby respectfully requests that the Commission add the Ka band frequencies in the AMAZONAS-3 satellite network, at 61°W.L., to the Permitted Space Station List, for the provision of services to and from the United States covered by the Commission WTO Basic Telecommunications Agreement (“WTO**

Telecom Agreement)<sup>1</sup> by modifying the Amazonas-3 authorization at 61°W.L. for the C and Ku bands granted on 14<sup>th</sup> March 2013. A FCC Form 312 application, together with exhibits providing the information required under Section 25.114 of the Commission's rules, are contained in the previously filed SAT-PPL-20121018-00183 and are incorporated by reference. There have been no changes in the material associated therewith and have been previously put on public notice without comment. Grant of this modified petition will serve the public interest by maintaining an existing competitive service option in addition to providing consumers with more alternatives in choosing communications service providers and services, reducing prices and facilitating technological innovation.

Such grant will also permit HISPAMAR SATÉLITES to offer its capacity to provide service to the US market from the 61 W.L. orbital location. As demonstrated in this modified petition and the previously filed and associated attachments by reference, AMAZONAS-3 satisfies all legal and technical requirements for US service.

## **I AMAZONAS-3 Meets the Requirements for Inclusion on the Permitted Space Stations List.**

In the *DISCO II first Reconsideration Order*, the Commission stated that it will grant a declaratory ruling request by a foreign satellite operator regarding provision of C-band and Ku-band service in the United States -and include operator's satellite on the Permitted Space Stations List - where the request is accompanied by information demonstrating compliance with Section 25.137 of the Commission's rules. In that Order, the Commission

*conclude[d] that US earth stations with ALSAT licenses should be permitted to communicate with any non-US satellite just as easily as they communicate with any US licensed satellite, provided that those communications do not cause harmful interference to or require protection from adjacent satellite operations, and otherwise comply with DISCO II.*

*In the case of Amazonas-3 this objective was fulfilled as indicated in IBFS file SAT-PPL-20121018-00183 (Call sign S2886) and granted on 14<sup>th</sup> March, 2013.*

In Declaratory Order of January 21, 2010, released on January 25, 2010, the Commission considered that it will be added non-U.S.-licensed Ka-band satellites to the Ka-band Permitted List upon request, once the Commission authorizes that satellite to provide service in the United States. Furthermore, the Commission ordered that satellite operators may request access to the United States to provide fixed-satellite services in the conventional Ka-band (18.3-18.8 GHz, 19.7-20.2 GHz, 28.35-28.6 and 29.25-30.0 GHz bands) by submitting a Petition for Declaratory Ruling accompanied by the information required in Sections 25.114 and 25.137 of the Commission's rules, 47 C.F.R. §§25.114 and 25.137, for the non-U.S. satellite.

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<sup>1</sup> The WTO came into being on January 1, 1995, pursuant to the Marrakesh Agreement Establishing the World Trade Organization (The Marrakesh Agreement), 33 I.L.M. 1125 (1994). The Marrakesh Agreement includes multilateral agreements on trade in goods, services, intellectual property and dispute settlement. The General Agreement on Trade in Services (GATS) is Annex 1B of the Marrakesh Agreement, 33 I.L.M. 1167 (1994). The WTO Telecom Agreement was incorporated into the GATS by the Fourth Protocol to the GATS (April 30, 1996), 36 I.L.M. 354 (1997).

The AMAZONAS-3 satellite network Ka band frequencies fully comply with the requirements applicable to US satellites and will not "cause harmful interference to or require protection from adjacent satellite operations". In addition, this petition includes and it is incorporated throughout all the information required under Section 25.114 and other relevant parts of the Commission's rules as amended. Accordingly, HISPAMAR SATÉLITES urges the Commission to grant the instant modified petition and include the Ka band frequencies of AMAZONAS-3 on the Permitted Space Stations List.

On the original petition Hispamar requested two waivers related to the Ka band frequencies. These waivers are to be maintained and are reproduced below for convenience:

Sections 25.210(a) and (b) of the Commission's rules requires all space stations in the Fixed-Satellite Service (FSS) in the C and Ka-bands using orthogonal linear polarization to be capable of switching polarization sense upon ground command. Taking into account that Hispamar cannot reverse such polarization from the ground because Amazonas-3 uses both senses of orthogonal polarization, employing state-of-the-art full frequency reuse through the use of orthogonal polarizations within the same beam and through the use of spatially independent beams for the Ka band, fulfilling sections 25.210(d) and (f), Hispamar respectfully requests by means of this petition a waiver to the sections 25.210(a) and (b).

Section 25.210(i) also requires FSS space station antennas to provide a cross-polarization isolation such that the ratio of the on axis co-polar gain to the co-polar gain to the crosspolar gain of the antenna in the assigned frequency band is at least 30 dB within its primary coverage area. Amazonas-3's cross-polarisation isolation for the Ka-band antennas will be 26 dB . Such cross-polarisation isolation performance level will have a negligible impact<sup>2</sup> on adjacent satellites as can be shown in the link budgets attached to this Petition. Therefore, Hispamar also respectfully requests a waiver of this rule.

Section 25.114(a). Section 25.114(a) requires that petitioners seeking space station authorization must submit a comprehensive proposal for each proposed space station on FCC Form 312, Main form and Schedule S, together with the referenced exhibits as described in the previously filed SAT –PPL-20121018-00183. This information is provided without change in the previously filed in this earlier Petition. It is incorporated in this Petition by reference.

It is also required that each application must also contain the formal waiver required by section 304 of the Communications Act, 47 U.S.C. 304. Such formal waiver is hereby formally requested.

Technical information for AMAZONAS-3, as required under Section 25.114 and 25.140(b) of the Commission's rules was provided as an attachment to Form 312 attached to the previous file (SAT –PPL-20121018-00183) and is incorporated by reference in this Petition.

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<sup>2</sup> See, e.g. *Viasat-1 Satellite Grant File No SAT-LOA-20110722-00132 (March 19, 2008)* and *EchoStar Satellite Operating Corporation, Application for Authority to Operate the EchoStar 9 Satellite in the Lower 500 MHz Portion of the Ka-band Frequencies at the 121° W.L. Orbital Location*, Files Nos. SAT-MOD-2006830-00092, SAT-STA-20050608-00116, Order Authorization, DA 06-2590 ¶¶7-8 (rel. Dec. 22, 2006).

In this context, HISPAMAR SATÉLITES emphasizes that operation of Amazonas-3 at 61°W.L. has been coordinated previously between the United States and Brazil.

The AMAZONAS-3 satellite is owned by HISPASAT CANARIAS - a company owned one hundred per cent by HISPASAT, S.A.- and operated by HISPAMAR SATÉLITES, which is based in Brazil. Brazil serves as the notifying administration for purposes of international satellite coordination pursuant to the relevant provisions of the International Telecommunications Union (ITU) Radio Regulations.

Schedule S for the Ka band frequencies is also included by reference to the SAT-PPL-20121018-00183 filing previously indicated as having been returned pursuant to the Third Report and Order in IB Docket No. 02-34 and Third Report and Order in IB Docket No. 00-248. Schedule S is fulfilled for the Ka band frequency bands requested for the Permitted Space Stations List over USA territory.

In its DISCO II Order, para. 7, the Commission “adopted a presumption that entry by WTO Member satellite systems will promote competition in the U.S. satellite services market”. In this context, HISPAMAR SATÉLITES, like an operator licensed by Brazil, a Member of WTO, believes that it will serve the pro-competitive goals of Section 25.137 by being included on the Permitted Space Station list.

#### Financial requirements

In its *First Space Station Licensing Reform Order*, the Commission eliminated the financial requirements then in place and replaced them with a bond requirement<sup>3</sup>.

Regarding the bond foreseen on 47 C.F.R 25.165 rule, no bond is needed in the present case taking into account that all milestones have been met since the Amazonas-3 was successfully launched on 7<sup>th</sup> February 2013.

## **II Access to the US Market for AMAZONAS-3 Will Serve the Public Interest**

Access by all U.S. earth stations with an ALSAT designation to AMAZONAS-3 would produce substantial public interest benefits. The availability of HISPAMAR SATÉLITES space segment to the U.S. Fixed-Satellite Service market will continue to stimulate lower prices, improve service quality, increase service options and foster technological innovation.

## **III Information required**

HISPAMAR SATÉLITES believes that information is sufficient according to Commission’s rules; however, should the Commission conclude that this information is insufficient, HISPAMAR SATÉLITES asks the Commission to request HISPAMAR SATELLITES to provide additional information or supplementary information or explanatory information that the Commission considers appropriate.

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<sup>3</sup> *First Space Licensing Reform Order*, 18 FCC Rcd at 10826 (para. 170)

#### **IV Conclusion**

Therefore, for the reasons set out above, HISPAMAR SATÉLITES respectfully requests that the Commission add the Ka band frequencies in the AMAZONAS-3 satellite network, at 61°W.L. to the Permitted Space Station List by modifying the Amazonas-3 authorization at 61°W.L. for the C and Ku bands granted on 14<sup>th</sup> March 2013.

Respectfully submitted,  
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By: \_\_\_\_\_

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