

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Eutelsat S.A.)	
)	File No.:
Petition for Declaratory Ruling to)	Call Sign: S2596
Modify the U.S. Market Access Grant)	
for EUTELSAT 12 West B)	

PETITION FOR DECLARATORY RULING

Eutelsat S.A. (“Eutelsat”) pursuant to Section 25.137(f) of the Commission’s Rules, 47 C.F.R. § 25.137(f), hereby seeks to modify the U.S. market access grant of the EUTELSAT 12 West B satellite¹ to add the 11.2-11.45 GHz downlink band to its authorization. In this Petition, Eutelsat demonstrates that it is legally, technically, and otherwise qualified to hold the requested authority; that the proposed operations are compliant with applicable Commission rules, regulations, and policies; and that grant of the Petition would serve the public interest, convenience, and necessity.

I. INTRODUCTION

EUTELSAT 12 West B, a French-licensed satellite currently in orbit at 12.5°W.L., operates in Ku-band frequencies, providing fixed-satellite service (“FSS”) connectivity to a range of users. The EUTELSAT 12 West B satellite was launched on 25 September 2001 to the 8°W.L. orbital location with an expected lifetime of more than 20 years. The satellite was

¹ The satellite was originally included on the Permitted List at 8° W.L. See Petitions for Declaratory Ruling To Add EUTELSAT Satellites ATLANTIC BIRD™ 1 at 12.5° W.L and ATLANTIC BIRD™ 2 at 8° W.L to the Commission’s Permitted Space Station List, Order, File No. SAT-PDR-20010207-00012 (rel. Aug. 30, 2001) (the “Order”); see also FCC Space Station Approval List (available at <https://www.fcc.gov/approved-space-station-list>). The Commission recently granted Eutelsat’s modification petition to reflect new frequencies and planned services for U.S. market access from the satellite’s current orbital location. See Petition for Declaratory Ruling to Modify the U.S. Market Access Grant for EUTELSAT 12 West B, File No. SAT-MPL-20191017-00117, Call Sign S2596 (grant stamp, April. 8, 2020) (the “Modification”). This Petition adds a request to conduct downlink operations in the 11.2-11.45 GHz band, along with an appropriate waiver request.

renamed EUTELSAT 12 West B when moved to the 12.5° W.L. orbit location. EUTELSAT 12 West B commenced operating in inclined orbit in April 2019 and currently has an inclination of 0.9°, which is increasing at a rate of 0.9° per year. The anticipated end of life of the satellite is currently 31 July 2022.²

The Commission recently granted Eutelsat’s petition to modify the satellite’s U.S. market access authority to provide Ku-band mobility and other FSS services over parts of the Americas.³ That modification permits operations in the 10.95-11.2 GHz, 11.45-11.7 GHz, and 12.5-12.75 GHz bands (space-to-Earth) and the 13.75-14.5 GHz band (Earth-to-space), and inclusion on the Permitted List at the satellite’s new location for those bands eligible for Permitted List authority.⁴

With this Petition, Eutelsat seeks to add the 11.2-11.45 GHz band (space-to-Earth) to the satellite’s U.S. market access authority to further support its Ku-band mobility and other FSS services.⁵ For the reasons discussed herein, grant of this Petition will serve the public interest by allowing Eutelsat to meet continued growing U.S. market demand for satellite services.

II. DISCUSSION

The Commission will allow non-U.S. licensed satellites to access the U.S. market upon compliance with the Commission’s Rules, 47 C.F.R. §§ 25.114 & 25.137, and demonstration that the public interest would be served by such authorization. This Petition and accompanying information, including the waiver requested herein, establish that updating authorizing

² This figure is based on Eutelsat’s most recent assessment of fuel consumption and reserves for future maneuvers of EUTELSAT 12 West B, including compliant deorbit of the satellite.

³ See *Modification*, grant stamp at 1.

⁴ *Id.*

⁵ Please note that the accompanying Schedule S includes reference to uplink (Earth-to-space) frequencies because the Commission’s International Bureau Filing System (“IBFS”) does not appear to permit a Schedule S filing only for downlink (space-to-Earth) frequencies. Nonetheless, this Petition seeks to add authority for the EUTELSAT 12 West B satellite to operate in the 11.2-11.45 GHz band only.

EUTELSAT 12 West B for the requested additional frequency band would be consistent with the Commission's rules and policies.

A. Legal Qualifications

The legal qualifications of Eutelsat are a matter of record before the Commission.⁶ Eutelsat and its affiliates operate many satellites that have been approved by the Commission as authorized points of communication for U.S. earth station licensees, including the French-licensed EUTELSAT 12 West B satellite.⁷ Eutelsat provides additional information regarding its current legal qualifications in FCC Form 312 and relevant attachments to this Petition. As explained below, Eutelsat seeks modification of the prior authority in order to add additional frequencies to satisfy recent demand for mobility and other FSS services which was not previously anticipated, and to afford additional flexibility to meet that demand.

B. Technical Qualifications

Pursuant to Commission rule 47 C.F.R. § 25.137(d), Eutelsat demonstrates in this Petition that the proposed operations of the EUTELSAT 12 West B satellite comply with applicable Commission requirements for non-U.S. licensed satellites to operate in the United States. Eutelsat provides the attached Engineering Statement, Schedule S, and associated materials establishing the technical and operational characteristics of the satellite.

⁶ See *Modification*, Legal Narrative at 3.

⁷ See *Order*; see also *Modification*. France is a member country of the World Trade Organization ("WTO"). Satellites licensed by WTO-member countries seeking to provide services covered by the WTO Basic Telecommunications Agreement are presumed to promote competition in the United States. See 47 C.F.R. § 25.137(a)(2); see also *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, IB Docket No. 96-111, 12 FCC Rcd. 24094, ¶ 39 (1997). Accordingly, Eutelsat need not make the effective competitive opportunities showing set out in Section 25.137 of the Commission's rules.

1. Satellite Service Area

The EUTELSAT 12 West B satellite includes American and European beams, as well as steerable beam capability. The Commission previously granted Eutelsat the operational flexibility to facilitate reorientation of all beams as part of Eutelsat's *Modification*.⁸ Eutelsat seeks the same flexibility for the additional frequencies requested in this Petition.

The technical information in the *Modification* and this Petition includes beam characteristics as EUTELSAT 12 West B is currently oriented. To the extent the beams are reoriented, Eutelsat will conform to all Commission operating requirements in the new orientation, including permissible transmit and receive power levels.

2. Spectrum Compatibility

Eutelsat seeks to include the 11.2-11.45 GHz band (space-to-Earth) in the EUTELSAT 12 West B satellite's market access authority. The Commission has previously granted authority for satellite operations in this band⁹ and Eutelsat affirms that EUTELSAT 12 West B and associated earth stations will be operated consistent with other approved operations. Moreover, the United States Table of Frequency Allocations ("Table of Allocations"), Commission rule 47 C.F.R. § 2.106, identifies conditions for spectrum use by satellite networks in the 11.2-11.45 GHz band. EUTELSAT 12 West B's planned operations in the band will be in accordance with the applicable footnotes of the Table of Allocations, except as otherwise noted below.

Under the Table of Allocations, the 11.2-11.45 GHz band has a co-primary allocation with terrestrial fixed service ("FS") in the United States. Footnote NG52 to the Table of Allocations limits the use of bands 10.7-11.7 GHz (space-to-Earth) by geostationary satellites in

⁸ See *Modification*, grant stamp.

⁹ See, e.g., Hispasat S.A., File No. SAT-PPL-20160722-00064, Call Sign S2969 (granted April 6, 2017).

the FSS to be limited to international systems.¹⁰ The satellite uplink for EUTELSAT 12 West B is located in Europe and the system is therefore an international system compliant with Footnote NG52.¹¹ Eutelsat also commits to compliance with Footnote US211 and will take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference.¹²

EUTELSAT 12 West B's operations will also be in accordance with the provisions of Appendix 30B of the ITU Radio Regulations pursuant to Section 25.140(a)(3)(v) and footnote 5.441 to Section 2.106.¹³ Footnote 5.441 states that the use of the band 11.2-11.45 GHz (space-to-Earth) by geostationary-satellite systems in the FSS must be compliant with the provisions of Appendix 30B. Similarly, Section 25.140(a)(3)(v) requires that an applicant submit a statement that the proposed operation will incorporate the applicable requirements of Appendix 30B and a demonstration of compatibility with other U.S. ITU filings under that appendix.

EUTELSAT 12 West B's operations will conform to the applicable requirements of Appendix 30B. First, as demonstrated in the attached Schedule S and Engineering Statement, EUTELSAT 12 WEST B downlink operations comply with EIRP limits applicable to the 11.2-11.45 GHz band which will serve to protect terrestrial operations in the band. There is also little potential for interference with non-geostationary satellite orbit ("NGSO") FSS systems that may operate in the 11.2-11.45 GHz band given this PFD compliance.¹⁴ Moreover, there are no U.S. Appendix 30B ITU filings within 6 degrees of 12.5 W.L. with precedence over ITU filings supporting the EUTELSAT 12 West B satellite, and therefore there are no compatibility issues

¹⁰ See 47 C.F.R. § 2.106 at footnote NG52.

¹¹ *Id.*

¹² See *id.* at footnote US211.

¹³ See *id.* at footnote 5.441, § 25.140(a)(3)(v).

¹⁴ EUTELSAT 12 West B downlink operations comply with applicable PFD limits, and authorized NGSO systems cannot claim protection from geostationary satellite networks in the FSS operating in accordance with the Radio Regulations.

with EUTELSAT 12 West B operations under Appendix 30B with respect to U.S. Appendix 30B ITU filings.

C. Public Interest Considerations

EUTELSAT 12 West B is an in-orbit satellite asset currently operated by Eutelsat at 12.5°W.L. Modifying the original U.S. Market access grant for EUTELSAT 12 West B authority to add a frequency band and operational flexibility will allow new commercial operations with the previously authorized satellite. These satellite services will help address current and future U.S. demand in particular for Ku-band mobility and other FSS services.

D. Waiver of Section 2.106 To Permit Downlink ESIM Operations in the 11.2-11.45 GHz Band

Eutelsat proposes to operate the EUTELSAT 12 West B Americas beam in the 11.2-11.45 GHz downlink band for ESIM operations, however, the Table of Allocations does not explicitly provide for ESIM operations in this band.¹⁵ Eutelsat requests a waiver of Section 2.106 of the Commission's rules to the extent necessary to allow the proposed downlink operations of EUTELSAT 12 West B in the 11.2-11.45 GHz band.

The Commission has authority to grant waivers of its rules for "good cause shown."¹⁶ In general, good cause exists if grant of a waiver would not undermine the purposes of the rule and would otherwise serve the public interest.¹⁷

Compelling reasons exist to grant the requested waiver in connection with Eutelsat's Petition to modify its U.S. market access authority.¹⁸ The Commission will generally grant a

¹⁵ See 47 C.F.R. § 2.106 at footnotes NG52, NG527A, and 25.228.

¹⁶ See *id.*, § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

¹⁷ *WAIT Radio*, 418 F.2d at 1157; *Intelsat North America LLC*, 22 FCC Rcd. 11989 (2007) at ¶ 6.

¹⁸ To the extent necessary, Eutelsat hereby incorporates the waiver requests in its previously granted *Modification* regarding station-keeping tolerance and end-of-life venting.

waiver of the Table of Allocations “when there is little potential interference into any service authorized under the [Table] and when the nonconforming operator accepts any interference from authorized services.”¹⁹ As demonstrated in the attached Schedule S and Engineering Statement, EUTELSAT 12 West B downlink operations comply with EIRP limits applicable to the 11.2-11.45 GHz band which will serve to protect terrestrial operations in the band. Eutelsat’s PFD compliance also limits the potential for interference with NGSO FSS systems that may operate in the 11.2-11.45 GHz band.²⁰ Moreover, the only other nearby co-frequency geostationary satellite, Telstar 12V, has stated that it does not operate in the 11.2-11.45 GHz band over the United States, and thus there is a minimal risk of interference with that satellite.²¹

Given the foregoing, Eutelsat has demonstrated it will appropriately limit interference to authorized users of the 11.2-11.45 GHz band. The addition of this spectrum will allow Eutelsat to enhance its mobility applications and other FSS services to improve the services offered to U.S. consumers. Accordingly, a waiver of Sections 25.140 and 2.106 is within the public interest.

¹⁹ See The Boeing Company, Order and Authorization, 16 FCC Rcd 22645, 22651 (Int’l Bur. & OET 2001); Application of Fugro-Chance, Inc. for Blanket Authority to Construct and Operate a Private Network of Receive-Only Mobile Earth Stations, Order and Authorization, 10 FCC Rcd. 2860 (Int’l Bur. 1995) (authorizing MSS in the C-band); *see also* Application of Motorola Satellite Communications, Inc. for Modification of License, Order and Authorization, 11 FCC Rcd. 13952-13956 (Int’l Bur. 1996) (authorizing service to fixed terminals in bands allocated the mobile satellite service).

²⁰ Authorized NGSO systems cannot claim protection from geostationary satellite networks in the FSS operating in accordance with the Radio Regulations.

²¹ See Skynet Satellite Corporation, SAT-MOD-20160225-00022 (filed Feb 25, 2016) (noting that “The Ap30B bands will not be used in the United States” and “[a]uthorization for use of Ap30B spectrum was not sought in the original application for T12V and is not sought in this modification application.”).

III. CONCLUSION

Eutelsat seeks authority for the EUTELSAT 12 West B satellite to access the U.S. market with additional frequencies, in particular for mobility and associated FSS services. Authorizing EUTELSAT 12 West B to provide service to U.S. customers in these additional frequencies will serve the public interest by enhancing competition in the United States and making efficient use of in-orbit satellite assets. For these and other reasons set forth herein, Eutelsat respectfully requests that the EUTELSAT 12 West B satellite be authorized to access the U.S. market in relevant Appendix 30B planned band frequencies at the 12.5° W.L. orbital location.

Attachment A

FCC Form 312, Response to Questions 34 and 40: Foreign Ownership, Officers, Directors, and Ten Percent or Greater Shareholders of Eutelsat S.A.

Eutelsat S.A. is a *société anonyme* organized under the laws of France and incorporated under number 422 551 176 RCS Paris. The address of Eutelsat S.A. is 70 rue Balard, 75015 Paris, France. An organizational chart showing the ownership of Eutelsat S.A. is attached.

96.37% of Eutelsat S.A.'s share capital is held by Eutelsat Communications S.A., the publicly traded parent of Eutelsat S.A. In addition, the Russian Satellite Communications Company ("RSCC") holds 3.38% of the shares issued by Eutelsat S.A. and 0.25% of the shares of Eutelsat S.A. are held by other non-Eutelsat entities as set out on the ownership chart attached hereto. RSCC and these other entities have no control over Eutelsat S.A. All shareholdings of Eutelsat S.A. (other than the 0.05% of such shares held by Eutelsat S.A.'s employees and executives) are a result of the privatization of Eutelsat S.A., formerly an intergovernmental organization.

19.80% of the share capital of Eutelsat Communications S.A. is held by Bpifrance Participations (formerly named Fonds Stratégique d'Investissement), a *société anonyme* formed in 2008 to enhance equity in France and help stabilize French companies during the economic crisis. Approximately 50% of Bpifrance Participations' share capital is held by the Caisse des Dépôts et Consignations (the "CDC") and approximately 50% of its share capital is held by the French State. Bpifrance Participations must present its strategic plans and annual report to the supervisory commission of the CDC. The Bpifrance Participations' board of directors has nine members. Three of the directors are representatives of the CDC, three of the directors are representatives of the French State and two of the directors are independent directors. The chief executive officer of Bpifrance Participations is appointed by its board of directors. The address of Bpifrance Participations is 27-31, avenue du Général Leclerc, 94710 Maisons-Alfort, Cedex, France.

The CDC is a financial institution wholly owned by the French State and under the supervision of the French Parliament that serves the general interest and the economic development of France. CDC has a mission of long-term investment. Approximately 50% of the CDC's recurring and non-recurring net profit is paid to the French State. The CDC is managed by a chief executive officer, who is appointed by the President of the French State. The CDC is supervised by a supervisory commission of thirteen members, all of which are appointed by various sectors of the French government.

7.50% of the share capital of Eutelsat Communications is held by Fonds Stratégique de Participation (FSP). Backed by six major French insurance companies (BNP PARIBAS CARDIF,

CNP ASSURANCES, CREDIT AGRICOLE ASSURANCES, SOGECAP (SOCIETE GENERALE group), GROUPAMA and NATIXIS ASSURANCES), the FSP is a long-term equity investor in French companies. Through FSP, insurance companies and key institutional investors with long-term liabilities channel some of France's long-term savings into equity investments.

6.60% of the share capital of Eutelsat Communications S.A. is held by Land Breeze s.a.r.l. Land Breeze s.a.r.l. is organized under the laws of Luxembourg and is a wholly owned subsidiary of China Investment Corp. (“CIC”). Two other subsidiaries of CIC organized under the laws of the People’s Republic of China, Flourish Investment Corporation and Best Investment Corporation (together with Land Breeze s.a.r.l., the “CIC Entities”), own 0.06% and 0.01% of the shares of Eutelsat Communications, S.A., respectively. Information about CIC can be found on its website: www.china-inv.cn.

To the best of Eutelsat Communications S.A.’s knowledge, no other shareholders own, directly or indirectly, more than 10% of its share capital or voting rights. Eutelsat Communications S.A. is managed by a board of directors that currently has ten members, each of whom has a four-year renewable term of office. Currently, seven of the directors are independent, two are affiliated with the Bpifrance Participations. No decisions of the board of directors can be taken or be blocked by two directors. Neither the Bpifrance Participations, nor any of the CIC Entities or FSP, nor any foreign government or person controlled by or acting on behalf of a foreign government has or will have the right or power to appoint any of Eutelsat Communications S.A.’s principal officers. None of the CIC Entities or FSP has the right or power to appoint any of Eutelsat Communications S.A.’s directors.

More information about Eutelsat Communications S.A., its shareholders, and its governance can be found on its website at www.eutelsat.com.

Principal officers of Eutelsat Communications S.A. include:

Rodolphe Belmer, CEO
Michel Azibert, Deputy CEO
Yohann Leroy, Deputy CEO

The individuals listed above can be contacted c/o Eutelsat S.A., 70 rue Balard, 75015 Paris, France. Mr. Belmer, Mr. Azibert and Mr. Leroy are citizens of the Republic of France.

