

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

In the Matter of)
) File N° _____
HISPASAT, S.A. (HISPASAT))
)
Petition for Declaratory Ruling to Add)
AMAZONAS-1 Satellite at 36° W L to the)
Comission's Permitted Space Stations List)
for the Ku band; and)

Petition for Declaratory Ruling to Serve
U.S. Market Using the Extended Ku-band
Capacity on AMAZONAS-1

To: International Bureau

INTRODUCTION

The satellite AMAZONAS-1 was launched on August 2004 and it has been operating at 61° W.L. orbital location until now. In fact, it is already included in the Commission's Permitted Space Stations List at 61° W.L. AMAZONAS-1's replacement, the AMAZONAS-3, was successfully launched on 7th February 2013. Once all the services will be transferred to the new AMAZONAS-3 satellite, the AMAZONAS-1 will be relocated from 61° W.L. to 36° W.L. It is foreseen that AMAZONAS-1 will be operated at 36° W.L. as of September 2013. In this respect, in according to 25.114 (b) of the Commission's rules we submit, by means of the present application, a

PETITION FOR DECLARATORY RULING

HISPASAT, by representative and pursuant to Sections 25.114 and 25.137 of the Commission's rules and the *DISCO II First Reconsideration Order*, hereby respectfully requests that the Commission add the AMAZONAS-1 satellite at 36°W.L. to the Permitted Space Station List and also requests a declaratory ruling permitting the use of the extended 13.75-14.0 GHz Ku-band capacity on AMAZONAS-1, for the provision of services from the United States, covered by the Commission WTO Basic Telecommunications Agreement

("WTO Telecom Agreement"). A FCC Form 312 application, together with exhibits providing the information required under Section 25.114 and 25.137 of the Commission's rules are attached hereto. Grant of this 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 HISPASAT to enhance its capacity to provide service to the US market from the 36° W.L. orbital location. As demonstrated in this petition and the accompanying attachments, AMAZONAS-1 satisfies all legal and technical requirements for US service.

I AMAZONAS-1 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 Commission¹

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.

The AMAZONAS-1 satellite fully complies with the requirements applicable to US satellites and will not "cause harmful interference to or require protection from adjacent satellite operations". Furthermore, this petition includes all of the information required under Sections 25.114 and 25.137 and other relevant parts of the Commission's rules. Accordingly, HISPASAT urges the Commission to grant the instant petition and include AMAZONAS-1 on the Permitted Space Stations List.

¹ See First Order on Reconsideration FCC 99-325, § 16

Section 25.137(a). Section 25.137(a) requires that petitioners seeking to operate with a non-US licensed space station submit as an exhibit to their Form 312 applications a showing demonstrating that U.S.-licensed satellite systems have effective competitive opportunities to provide analogous services in the country in which the non-U.S.licensed space station is licensed, and all countries in which communications with the US earth station will originate and terminate.

Section 25.137(b). Section 25.137(b) also requires petitioners to submit as exhibits to their Form 312 applications essentially the same legal, technical and financial information required of applicants seeking space station authorizations from the Commission in accordance with Part 25 of the Commission's rules.

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 attached exhibits as described in paragraph (d) of this Section. These are attached to this Petition. The Schedule S is fulfilled for the frequency bands requested over USA territory. In this sense, we would like to clarify that we are unable to attach the gxt files to Schedule S in version 2 (latest Gims version) because Schedule S did not accept Type 2 gxt files; therefore, after consultation with the FCC staff (through the help desk), we are submitting the gxt files via email to IBFSINFO@fcc.gov instead, and filing these gxt files as an attachment to the application.

Section 25.114 (d) Information required under this paragraph is also attached to this Petition.

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.

II Competition considerations

The AMAZONAS-1 satellite is owned by HISPASAT CANARIAS a company owned one hundred per cent by HISPASAT and operated by HISPASAT, which is based in Spain. Spain serves as HISPASAT's notifying administration for purposes of international satellite coordination pursuant to the relevant provisions of the International Telecommunications

Union (ITU) Radio Regulations.

The Commission concluded in DISCO II² that, in order to be granted access to the U.S. market, space station operators not licensed by the Commission will be required to meet the same qualification that U.S.-licensed space station operators must meet to obtain a satellite license. The information provided in this Petition, including the associated attachments and FCC Form 312, demonstrate that HISPASAT satisfies these requirements.

In its DISCO II Order³, the Commission “*adopt[s] a presumption that entry by WTO Member satellite systems will promote competition in the U.S. satellite services market*”.

In this context, HISPASAT, like an operator licensed by Spain, a Member of WTO, believes that serves the pro-competitives goals of Section 25.137 in order to be included on the Permitted Space Station list.

III 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 requirement⁴. According to 47C.F.R 25.165, bond will be posted, if any, in duly time.

IV Spectrum Availability

The Commission considers spectrum availability as a factor in determining whether to allow a foreign-licensed satellite to serve U.S. market and evaluates grant of access will create the potential for harmful interference with U.S.-licensed satellites. As it is said above, AMAZONAS-1 currently operates on the conventional and extended Ku-band frequencies. There is no satellite serving the U.S. market currently located or proposed to be located at the nominal 36° W.L. orbital location that uses or proposes to use this frequency band. Accordingly, the frequencies are available for use in the provision of service to the United States.

Hispasat acknowledges that use of the extended Ku-band frequencies (13.75-14.0 GHz) is subject to case-by-case electromagnetic compatibility analysis with co-primary services. HISPASAT also acknowledges that earth station operators seeking to access AMAZONAS-1 using the extended Ku-band frequencies must still obtain a specific earth station license that includes AMAZONAS-1 as an authorized point of communication or modify an existing

² See DISCO II §§ 154-59

³ See DISCO II, § 7

⁴ *First Space Licensing Reform Order*, 18 FCC Rcd at 10826 (para. 170)

