

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

In the Matter of
HISPASAT, S.A. (HISPASAT)

File N° _____

Petition for Declaratory Ruling to Add
HISPASAT 30W-6 Satellite nominally at 30° W L
to the Commission's Permitted Space Stations List
for the Ku band; and

Petition for Declaratory Ruling to Serve
U.S. Market Using the Extended Ku-band 13.75-14.0 GHz
and 6725-7025/ 4500-4800 MHz and 13.0-13.25/11.2-11.45 GHz
Capacity on HISPASAT 30W-6

To: International Bureau

INTRODUCTION

HISPASAT, S.A., (HISPASAT) pursuant to Section 25.114 of the Federal Communications Commission's ("FCC") rules, hereby applies to operate a C/Ku replacement satellite with new frequencies, to be known as HISPASAT 30W-6 (formerly commercially named HISPASAT-1F) satellite at 30° WL.

HISPASAT 30W-6 will be the replacement of HISPASAT 30W-4 (formerly commercially named HISPASAT-1D) in the unplanned Ku band (13.75 – 14.5 / 11.7 – 12.2 GHz) and will add extra capacity in the C and Ku Appendix 30B planned bands (6725-7025/ 4500-4800 MHz and 13.0-13.25/11.2-11.45 GHz). The construction of HISPASAT 30W-6 is on-going, it is foreseen to be launched in the 2nd or 3rd Quarter 2017 (pending on the final launch date) and will be operated at the 30° W.L. orbital location where HISPASAT 30W-4 is currently operated. The unplanned Ku-band frequencies and their associated technical characteristics on HISPASAT 30W-6 are similar to those on HISPASAT 30W-4 which was previously approved for the Permitted List¹. This Petition for HISPASAT 30W-6 includes the necessary information and technical characteristics for all the frequencies on this satellite network as the basis for putting them on the Permitted List.

Once HISPASAT 30W-6 becomes fully operational and after all services be transferred to the new satellite, HISPASAT 30W-4 is planned to be relocated into another orbital slot yet to be decided or utilized as a back-up satellite for HISPASAT 30W-6. The definitive plan will be informed to the Commission as soon as the decision is made concerning this matter.

In this respect, in according to 25.114 (b) of the Commission's rules we submit, by means of the present application, a

¹ See File No. HISPASAT-1D Grant SAT-PDR-20030430-00090 (October 15, 2003)

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 HISPASAT 30W-6 satellite at 30°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,² 6725-7025/4500-4800 MHz³ and 13.0-13.25/11.2-11.45 GHz capacity on HISPASAT 30W-6, 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 also will permit HISPASAT to enhance its capacity to provide service to the US market from the 30° W.L. orbital location. As demonstrated in this petition and the accompanying attachments, HISPASAT 30W-6 satisfies all legal and technical requirements for U.S. service.

It is not the HISPASAT intention to provide Direct-to-Home (DTH) services in the United States by means of HISPASAT 30W-6 at 30°W.L.

I HISPASAT 30W-6 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 Commission⁴

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 HISPASAT 30W-6 satellite fully complies with the requirements applicable to US satellites and will not "cause harmful interference to or require protection from adjacent

² HISPASAT acknowledges that earth station operators seeking to access HISPASAT 30W-6 using the extended Ku-band frequencies must still obtain a specific earth station license that includes HISPASAT 30W-6 as an authorized point of communication or modify an existing license to add HISPASAT 30W-6 as a point of communication. *See, e.g., In the Matter of Telesat Canada*, 17 FCC Rcd 25287, at ¶ 1 (Int'l Bur. 2002).

³ HISPASAT acknowledges that earth stations seeking access HISPASAT 30W-6 using frequency ranges specified in US245 are subject to case-by-case electromagnetic compatibility analysis.

⁴ See First Order on Reconsideration FCC 99-325, §16

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 HISPASAT 30W-6 on the Permitted Space Stations List.

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 does not accept version 2 gxt files; therefore, they have been attached to Schedule S in version 1 and also filing these gxt files as an attachment to the application.

Sections 25.114(c) and (d). Information required under these paragraphs is also attached to this Petition.

Waiver Requests

HISPASAT requests that the Commission grant some waivers of this requirement pursuant to Section 1.3 of the Commission's rules:

- Hispasat requests waiver of Section 2.106 Footnotes US 245 and NG52, which permit the use of the 4500-4800 MHz and 13000-13250 / 10700-11700 MHz frequency bands by non-federal fixed satellite service for international systems only⁵;

HISPASAT-30W-6 will utilize the 6725-7025 / 4500-4800 MHz and 13000-13250 / 11200-11450 MHz frequency bands to provide service to U.S. territory and:

- for the frequency ranges 13000-13250 / 11200-11450 MHz, HISPASAT requests a waiver to allow use of these bands for domestic service use on a non-interference, non-protected basis, and
- for the frequency range 4500 - 4800 MHz (space to Earth), HISPASAT requests a waiver to allow use of this band for domestic service use and

⁵ 47 C.F.R. §2.106 footnotes US 245 and NG52

international non-intercontinental use on a non-interference, non-protected basis.

Good cause for a waiver exists in this case. Grant of the requested waiver to permit domestic use of these frequencies would be consistent with some precedent⁶. As in those cases, grant of the requested waiver will make available additional domestic capacity without risk of harmful interference because HISPASAT 30W-6 will operate on a non-interference, non-protected basis.

- HISPASAT requests a partial waiver of Part 25.210(f). Due to satellite design constraints, this satellite did not have enough capacity to be equipped with frequency reuse for some frequencies in the coverage of the United States.
- 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 HISPASAT 30W-6 satellite is owned 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 II⁷ 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 Order⁸, 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 requirement⁹. According to 47 C.F.R 25.165, bond will be posted, if any, in duly time.

⁶ For example, see *Policy Branch Information; Actions Taken*, Report No. SAT-00796, File No. SAT-LOA-20101014-00219 (July 29, 2011) (granting waiver of Footnote 2 of Section 25.202(a)(1) and Footnote NG104 of Section 2.106 for Intelsat 18)

⁷ See DISCO II §§ 154-59

⁸ See DISCO II, §7

⁹ *First Space Licensing Reform Order*, 18 FCC Rcd at 10826 (para. 170)

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 of access will create the potential for harmful interference with U.S.-licensed satellites. As it is said above, HISPASAT 30W-6 will operate conventional Ku frequency currently in operation on HISPASAT 30W-4 which was previously approved for the Permitted list and extended Ku-band frequencies as well as 6725-7025/ 4500-4800 MHz and 13.0-13.25/11.2-11.45 GHz bands. There is no satellite serving U.S. market currently located or proposed to be located at 30°W.L. orbital location that uses or proposes to use these frequency bands. Accordingly, the frequencies are available for use in the provision of service to the United States.

V Access to the US Market for HISPASAT 30W-6 Will Serve the Public Interest

Access by all U.S. earth stations with an ALSAT designation and through the extended 13.75-14.0 GHz band and 6725-7025/ 4500-4800 MHz and 13.0-13.25/11.2-11.45 GHz bands to HISPASAT 30W-6 would produce substantial public interest benefits. The availability of HISPASAT 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.

VI Conclusion

Therefore, for the reasons set out above, HISPASAT respectfully requests that the Commission issue a declaratory ruling adding the HISPASAT 30W-6 satellite nominally at 30°W.L. to the Ku Permitted Space Station List and permitting the use of the extended 13.75-14.0 GHz Ku-band capacity and 6725-7025/ 4500-4800 MHz and 13.0-13.25/11.2-11.45 GHz capacity on the HISPASAT 30W-6 satellite as well (HISPASAT understands that operations in 13.75-14.0 GHz, 6725-7025/ 4500-4800 MHz and 13.0-13.25/11.2-11.45 GHz frequency bands are subject to certain limitations and obligations, which HISPASAT accepts and will fulfill).

Respectfully submitted,
HISPASAT, S.A.

By: ___/s/ _____

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