



Federal Communications Commission  
Washington, DC 20554

International Bureau

April 24, 2002

Jennifer D. Hindin Esq.  
Wiley Rein & Fielding LLP  
1776 K Street NW  
Washington, DC 20006

Re: Request for Special Temporary Authority for Intelsat 805: Call Sign: S2404; File No. SAT-STA-20011120-00099

Dear Ms. Hindin:

This letter is in response to your request for special temporary authority ("STA") for 30 days to allow **Intelsat** LLC ("Intelsat") to operate its **INTELSAT 805** satellite in the 12.7-12.75 GHz frequency band, and corresponding waiver of Sections 2.106 and 25.202(a)(1) of the Commission's rules.<sup>47</sup> 47 C.F.R. §§ 2.106, 25.202(a)(1)

On August 8, 2000, we granted **Intelsat** authority to operate **INTELSAT 805** at its current 55.5" W.L. orbital location, as a U.S. licensee, in Regions 1 and 3 in the 12.5-12.75 GHz frequency band.<sup>1</sup> Due to a customer's request for service in Region 2 in the 12.7- 12.75 GHz frequency band. **Intelsat** seeks authority to provide Fixed-Satellite Service (FSS) in this band in the space-to-Earth transmission direction on a special temporary basis for a period of 30 days. **Intelsat** recognizes that 12.7-12.75 GHz is not allocated to the FSS for **downlink** transmissions. nor do the Commission's satellite service rules identify 12.7-12.75 GHz as available for use by FSS in the space-to-Earth **direction**.<sup>3</sup> **Intelsat** therefore requests that the Commission waive these rules to permit **Intelsat's** proposed non-conforming use of the 12.7-12.75 GHz band.

---

<sup>1</sup> See Letter from Jennifer D. Hindin, Counsel for **Intelsat** LLC, to Magalie Roman Salas, Secretary, FCC (November 20, 2001) (requesting Special Temporary Authority for 30 days to allow **Intelsat** to operate the **INTELSAT 805** satellite in the frequency band 12.7 – 12.75 GHz.) File No. SAT-STA 20011120-00099 (November 20, 2001). See also Letter from Jennifer D. Hindin, Counsel for **Intelsat** LLC, to Magalie Roman Salas, Secretary, FCC (December 4, 2001) (requesting waiver of Sections 2.106 and 25.202(a)(1) of the FCC rules for purposes of STA request).

<sup>2</sup> **Intelsat** was also given authority to operate **INTELSAT 805** in the 14.0-14.25 GHz frequency band. See *Applications of Intelsat LLC For Authority to Operate, and to Further Construct, Launch and Operate C-Band and Ku-Band Global Satellites That Form a Global Communications System in Geostationary Orbit*, 15 FCC Rcd 15460 (2000) (Memorandum Opinion Order and Authorization), *recon. denied*, 15 FCC Rcd 25234 (2000), *further proceedings*, 16 FCC Rcd 12280 (2001) (*Intelsat LLC Orders*). See also **Intelsat** LLC Application for C-Band and Ku-Band Global Satellite System Volume II. Annex I at I 1, January 18, 2000.

<sup>3</sup> See 47 C.F.R. §§ 2.106 and 25.202 (a)(1), respectively.

Section 25.120 of the Commission's rules gives the Commission authority to grant special temporary authorization (STA), "upon finding that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of these temporary operations would seriously prejudice the public interest." The rule further states that -'convenience to the applicant, such as marketing considerations of meeting customer in-service dates. will not be deemed sufficient for this purpose.'" In its STA request, **Intelsat** states that the public interest will be served by granting this request because it will allow **Intelsat** to meet business requirements at 55.5° W.L. By the rule's terms, these business requirements do not justify a grant of special temporary authority.

Section 1.3 of the FCC rules authorizes the Commission to waive its rules if there is "good cause" to do so.<sup>6</sup> Waiver is appropriate if (1) special circumstances warrant a deviation from the general rule. and (2) such deviation would better serve the public interest than would strict adherence to the general rule.' Circumstances that would justify a waiver include "considerations of hardship. equity. or more effective implementation of overall policy."\* Generally. the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question. and would otherwise serve the public interest.

**Intelsat** sets forth a number of reasons why good cause for the waiver of Section 25.120 of the Commission's rules exists. First, it claims that serving this customer will allow it to fill previously unused capacity on its satellite located at 55.5° W.L. Second, **Intelsat** states that this will expand the presence of U.S. satellite operators in Latin America. Finally, it claims that granting this request will allow the public interest to be served because it will allow **Intelsat** to meet business requirements at 55.5° W.L.

---

<sup>4</sup> 47 C.F.R. §25.120.

<sup>5</sup> *Id.*

<sup>6</sup> See Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

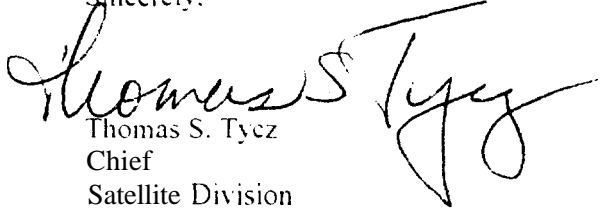
*Northeast Cellular*, 897 F.2d at 1166. See also *Comsat Corporation, Petition for Partial Relief from the Current Regulatory Treatment of Comsat World Systems' Switched Voice, Private Line, and Video and Audio Services*, *Order*, 11 FCC Rcd 9622, 9625 (para. 10) (1996); *Petition of General Communications, Inc. for a Partial Waiver of the Bush Earth Station Policy*, *Memorandum Opinion and Order*, 11 FCC Rcd 2535, 2536 (para. 4) (Int'l Bur. 1996).

<sup>8</sup> *WAIT Radio*, 418 F.2d at 1159.

In applying the waiver standard to Intelsat's case, we do not find that the above reasons meet the level of hardship or special circumstances required in justifying a waiver. Because we do not find that Intelsat has justified a waiver of Section 25.120 of the Commission's rules, we need not consider its request for a waiver of the Table of Frequency Allocations to permit the proposed non-conforming use.

Accordingly, pursuant to Section 0.161 of the Commission's rules on delegated authority 47 C.F.R. §0.261, Intelsat's request for Special Temporary Authority (SAT-STA-20011120-00099) is Denied.

Sincerely,



Thomas S. Tycz  
Chief  
Satellite Division