

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Application by)
)
SES AMERICOM, INC.) File No. SAT-STA-20030402-00061
)
For Special Temporary Authority)
to Operate AMC-2 at 105° W.L.)

ORDER AND AUTHORIZATION

Adopted: July 7, 2003

Released: July 7, 2003

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. By this Order, we grant SES AMERICOM, Inc. ("SES AMERICOM") authority to drift the AMC-2 satellite from the 85° W.L. orbit location to the 105° W.L. orbit location, and to operate at the 105° W.L. orbit location on a temporary, non-harmful interference basis. This authority is restricted to SES AMERICOM's authorized Ku-Band operations at that location, and to temporary use of the C-Band frequencies solely for TT&C functions. This authority will expire before the commencement of C-Band operations by a foreign-licensed satellite that has filed a valid prior coordination request at the International Telecommunication Union ("ITU"). In addition, we authorize special temporary authority to provide direct-to-home service on AMC-2 at the 105° W.L. orbit location. Grant of this authority will permit SES AMERICOM to improve its Ku-Band services to users at the 105° W.L. orbital location.

II. BACKGROUND

2. In 1995, the Commission authorized the launch and operation of AMC-2, which is a hybrid C- and Ku-band geostationary satellite currently operating at 85° W.L.¹ SES AMERICOM was granted special temporary authority for direct-to-home operations from AMC-2 at the 85° W.L. orbit location,² pending Commission action on an underlying license modification application to provide direct-to-home.³

¹ *GE American Communications, Inc.*, Order and Authorization, 10 FCC Rcd 13775 (Int'l Bur. 1995) ("AMC-2 Order"). The *AMC-2 Order* authorizes Ku-Band operations on the 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands, and C-Band operations in the 3700-4200 MHz and 5925-6425 MHz frequency bands. AMC-2 was then named GE-2.

² SES AMERICOM, Application File No. SAT-STA-20030220-00014.

³ SES AMERICOM, Application File No. SAT-MOD-20021108-00205.

3. SES AMERICOM now requests special temporary authority to relocate AMC-2 from the 85° W.L. orbit location to the 105° W.L. orbit location. Now that SES AMERICOM has successfully launched its AMC-9 satellite to the 85° W.L. orbit location, SES AMERICOM is transferring traffic at that location from AMC-2 to the co-located AMC-9. SES AMERICOM is currently providing authorized Ku-Band operations at the 105° W.L. orbit location from its GSTAR 4 spacecraft. SES AMERICOM plans to replace the GSTAR 4 with AMC-15, a Ku- and Ka-Band hybrid spacecraft, in late 2004. In the meantime, SES AMERICOM seeks temporary authority for AMC-2 to provide increased coverage and improved services to Ku-Band customers at the 105° W.L. orbit location.

4. Since AMC-2 is a hybrid C- and Ku-Band satellite, SES AMERICOM also requests special temporary authority to provide C-Band operations from AMC-2 at the 105° W.L. orbit location. SES AMERICOM also seeks authority to operate tracking, telemetry, and control (“TT&C”) operations via C-Band frequencies. While there is no C-Band spacecraft currently operating at the 105° W.L. orbit location, New Skies Satellites N.V. (“New Skies”) is authorized by the Dutch Ministry of Economic Affairs, Telecoms Agency to launch and operate a C-Band satellite at the 105° W.L. orbit location. The Commission has granted New Skies market access to the United States market in the C-Band from that location.⁴ SES AMERICOM asserts that relocating AMC-2 will allow it to provide increased coverage and improved service to Ku-Band customers from the 105° W.L. orbit location, and, if authorized, will allow the introduction of C-Band services on a temporary basis.

III. DISCUSSION

5. The Commission has generally permitted satellite operators the flexibility to design and modify their networks in response to customer requirements, provided there are no compelling countervailing public interest considerations.⁵ With the launch of a new generation replacement satellite - AMC-9 -- into its authorized 85° W.L. orbit location, SES AMERICOM has determined that it can best serve its customers by moving the AMC-2 satellite from that location to provide temporary operations at the 105° W.L. orbit location.

6. Allowing the temporary use of unused orbital resources permits the public to receive services that would not otherwise be available.⁶ Consequently, over the past two decades, the Commission has granted a variety of satellite providers temporary authority to operate at orbit locations that are not regularly assigned to them. In issuing such authority, however, the Commission has been mindful to ensure that temporary operations do not adversely impact regularly licensed satellite systems, and it has conditioned temporary grants accordingly.⁷

⁴ *New Skies Networks, Inc.*, Order, 18 FCC Rcd 896 (Satellite Division, Int’l Bur. 2003).

⁵ *See, e.g., AMSC Subsidiary Corporation*, Order and Authorization, 13 FCC Rcd. 12316, 12317 (Int’l Bur. 1998).

⁶ *PanAmSat Corporation*, Order and Authorization, 15 FCC Rcd. 21802 (Int’l Bur. 1999).

⁷ *See, e.g., ARC Professional Services Group*, Order and Authorization, 5 FCC Rcd 5398 (Com. Car. Bur. 1990) (ARC granted temporary authority to operate tracking and data relay satellite system C-Band transponders at 62° W.L. until that orbit location was ready to be occupied by a regularly assigned licensee); *Satellite Business Systems*,

7. Four parties filed comments on this request. Autotote Communications Services, a customer on AMC-2, originally raised objections to the relocation of the spacecraft, but subsequently withdrew those objections.⁸ Telesat Canada does not object to temporary Ku-Band operations at the 105° W.L. orbit location, or to the use of C-Band frequencies for TT&C operations. Telesat Canada is concerned that grant of temporary authority for C-Band operations at the 105° W.L. orbit location would be contrary to the letter and spirit of the Trilateral Agreement negotiated by the telecommunications administrations of Canada, Mexico and the United States.⁹ New Skies Satellites N.V. stated that it does not oppose grant of the special temporary authority, with appropriate conditions.¹⁰ SES AMERICOM consented to the conditions proposed by New Skies, with minor revisions, to which New Skies does not object. Satmex S.A. de C.V. filed a letter stating that it does not object to the grant of special temporary authority, subject to the successful conclusion of coordination discussions between Satmex and SES AMERICOM regarding the Trilateral orbit positions.¹¹ Following comments and negotiations between the affected parties, the following elements of SES AMERICOM's requested authority are uncontested: (1) temporary assignment of AMC-2 to the 105° W.L. orbit location; (2) temporary operation of AMC-2's Ku-Band payload at that location subject to the conditions herein; and (3) temporary operation of AMC-2's C-Band payload at that location for TT&C operations, subject to the conditions herein.

8. Under these circumstances, we see no reason to prevent SES AMERICOM from providing Ku-Band service and C-Band TT&C operations from 105° W.L. on a temporary basis. We also authorize special temporary authority to deliver direct-to-home services over AMC-2, pending action on SES AMERICOM's request for modification of the AMC-2 license to authorize DTH services.¹² We defer to a later decision any action on that part of this application requesting authority to provide temporary C-Band communications services to customers from the 105° W.L. orbit location.

9. Rather than issuing a series of 180 day grants of special temporary authority, however, we find it simpler to issue a conditional grant to SES AMERICOM that will automatically terminate if

Mimeo No. 5207 (Com. Car. Bur. 1984) (SBS granted temporary authority to operate its SBS-4 satellite at 101° W.L. until that location was ready to be occupied by a regularly assigned licensee).

⁸ Autotote Communications Services, Request for Dismissal (filed June 19, 2003); Autotote Communication Services, Petition of Autotote Communication Services to Deny or to Hold in Abeyance (filed May 21, 2003).

⁹ Comments of Telesat Canada (filed May 22, 2003); Reply of Telesat Canada (filed June 9, 2003). *Working Arrangement Among the Telecommunications Entities of Canada, Mexico and the United States for Sharing the Use of the Geostationary Satellite Orbit Between 105° and 123° West Longitude and Certain Frequency Bands Allocated to the Fixed Satellite Service* (commonly referred to as the "1988 Trilateral Agreement).

¹⁰ New Skies Satellites N.V., Petition to Condition of New Skies Satellites N.V. (filed May 22, 2003). The conditions proposed by New Skies, as modified by SES AMERICOM without objection by New Skies, are incorporated in the ordering clauses of this authorization.

¹¹ Letter from Lauro Gonzalez, Chief Executive Officer, Satmex S.A. de C.V. to Marlene H. Dortch, Secretary, Federal Communications Commission (filed May 22, 2003).

¹² See File No. SAT-MOD-2002-1108-00205 (pending modification application).

and when its C-Band TT&C operations affect those of satellite operators with appropriate ITU date priority. Further, to provide administrations with ITU date priority for C-Band operations at this location sufficient certainty that 105° W.L. will be unoccupied at the time of launch, we require SES AMERICOM to terminate C-Band operations on AMC-2 at the later of two possible events. If SES AMERICOM does not reach coordination agreement for C-Band command signal operations, then SES AMERICOM must terminate C-Band operations at the later of: (1) fifteen days after receiving notice that a satellite bringing the NSS-12 satellite network (or another network with appropriate ITU date priority) into use at the 105° W.L. orbit location is to be launched or relocated, or (2) thirty days before the date of such launch or relocation, if continued operation of the AMC-2 C-Band command signal would cause harmful interference to the C-Band operations of the other satellite network and SES AMERICOM has not reached agreement concerning continued operation of the command signal with the other satellite network operator. If SES AMERICOM does reach agreement with the other satellite network operator, it may continue its C-Band command signal and its Ku-Band operations subject to this authorization and its agreement.

10. To facilitate any termination of Ku-Band service that may be required in the absence of agreement for C-Band TT&C operations with a satellite which has appropriate C-Band ITU date priority at the 105° W.L. orbit location, we require SES AMERICOM to inform its customers, in writing, that service from 105° W.L. is being provided pursuant to a grant of temporary authority. Further, within seven days of receiving notification of the launch date of a satellite with appropriate ITU date priority at the 105° W.L. orbit location, SES AMERICOM must inform its customers of the date upon which service from the 105° W.L. orbit location will terminate. We hold SES AMERICOM responsible for ensuring that all end-users receive this notification, including those that are not directly served by SES AMERICOM but are served by resellers that access capacity on the SES AMERICOM satellite at 105° W.L. In granting SES AMERICOM this conditional authorization, we emphasize that this authority is limited to AMC-2 only and does not convey to SES AMERICOM any authority to operate another satellite at 105° W.L.

IV. CONCLUSION AND ORDERING CLAUSES

11. Consistent with the foregoing discussion, we conclude that the public interest, convenience, and necessity will be served by allowing SES AMERICOM, Inc. to provide temporary service on a non-harmful interference basis over AMC-2 from the 105° W.L. orbit location. Accordingly, pursuant to Section 309 of the Communications Act, 47 U.S.C. § 309, and Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, IT IS ORDERED that Application File No. SAT-STA-20030402-00061 IS GRANTED TO THE EXTENT DESCRIBED BELOW.

12. IT IS ORDERED that SES AMERICOM is authorized to drift AMC 2 from the 85° W.L. orbit location to the 105° W.L. orbit location subject to the following conditions:

- a) During the drift of AMC-2 from 85° W.L. to 105° W.L., SES AMERICOM shall not operate the communications payload on AMC 2; and
- b) SES AMERICOM shall coordinate its telemetry, tracking, and control operations with existing geostationary satellites to ensure that no unacceptable interference results from its telemetry, tracking, and control operations during its drift operations.

13. IT IS FURTHER ORDERED that SES AMERICOM IS AUTHORIZED to operate the AMC-2 satellite at the 105° W.L. orbit location in the 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands, and to conduct tracking, telemetry and control operations in the 3.7-4.2 and 5.925-6.425 GHz frequency bands subject to the following conditions:

(a) SES AMERICOM shall operate consistent with any existing coordination agreements for operations at the 105° W.L. orbit location, or, on a non-harmful interference basis, and thus will not cause harmful interference into any lawfully operating satellite network or radio communication system. SES AMERICOM's operations will cease immediately upon notification of harmful interference;

(b) SES AMERICOM's use of frequencies in the 3.7-4.2 and 5.925-6.425 GHz bands will be limited to the performance of tracking, telemetry and control functions, pending further Commission action;

(c) In the absence of a coordination agreement allowing its continued TT&C operations at C-Band, SES AMERICOM must terminate its operations and commence relocation of AMC-2 from the 105° W.L. orbit location by the later of (1) fifteen days after receiving notice that a satellite bringing the NSS-12 satellite network (or another network with appropriate ITU date priority) into use at the 105° W.L. orbit location is to be launched or be relocated, or (2) thirty days before the date of such launch or relocation, if continued operation of the AMC-2 C-Band command signal would cause harmful interference to the C-Band operations of the other satellite network and SES AMERICOM has not reached agreement concerning continued operation of the command signal with the other satellite network operator;

(d) SES AMERICOM must inform its customers, in writing, that services from the 105° W.L. orbit location are being provided pursuant to a grant of temporary authority. SES AMERICOM is responsible for ensuring that all end-users, including those served by resellers that access capacity on the satellite receive this notification;

(e) In the absence of a coordination agreement allowing its continued TT&C operations at C-Band, within seven days of receiving notification from New Skies of the date it will bring the NSS-12 network into use (or from another operator with appropriate ITU date priority), SES AMERICOM must inform its customers of the date upon which service from the 105° W.L. orbit location will terminate.

14. IT IS FURTHER ORDERED that SES AMERICOM is granted special temporary authority to deliver direct-to-home services over AMC-2, pending action on SES AMERICOM's request for modification of the AMC-2 license to authorize DTH services.

15. SES AMERICOM is afforded thirty days to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned. This Order is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within thirty days of the date of the release of this Order (see 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Thomas S. Tycz
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