



Federal Communications Commission  
Washington, DC 20554

International Bureau

January 14, 2004

Mr. Scott Blank  
Pegasus Development Corporation  
c/o Pegasus Communications Management Company  
225 City Line Avenue, Suite 200  
Bala Cynwyd, PA 19004

Re: Consolidated Applications for Authority to Operate one U.S. Transmit/Receive Fixed Earth Station (Call Sign E010320) and 1,000,000 Receive-Only Earth Stations (Call Sign E020022) with the Canadian-Licensed Nimiq 1 and Nimiq 2 Satellites to Offer Direct Broadcast Satellite Service Throughout the United States, File Nos. SES-LIC-20011121-02186 and SES-LIC-20020111-00075.

Dear Mr. Blank:

On November 21, 2001 and January 11, 2002, WSNet Holdings, Inc. ("WSNet") filed the above-referenced applications ("Applications"). Subsequently, WSNet filed for voluntary Chapter 11 bankruptcy on October 21, 2002.<sup>1</sup> On September 4, 2003, while Commission action on the Applications was pending, Pegasus Development Corporation ("Pegasus") filed two amendment applications indicating that Pegasus had acquired ownership of various WSNet assets, including the Applications.<sup>2</sup> Pursuant to Sections 25.116 and 25.151 of the Commission's rules,<sup>3</sup> the International Bureau ("Bureau") placed the amendments on public notice on September 24, 2003.<sup>4</sup> In order to continue processing Pegasus's Applications, we need additional information concerning Pegasus's capacity arrangements with regard to the Nimiq 1 and Nimiq 2 satellites.

In the Applications, WSNet states that it "seeks to operate its earth stations in conjunction with" the Nimiq 1 and Nimiq 2 satellites.<sup>5</sup> Information concerning Nimiq 1 and Nimiq 2 capacity has come to light in the Bureau's proceeding to consider DirecTV, Inc.'s ("DirecTV") request for special temporary authority to relocate the DIRECTV 3 satellite.<sup>6</sup> In that proceeding, Telesat Canada ("Telesat"), the entity holding the Canadian license to operate the Nimiq 1 and Nimiq 2 satellites, indicated, on the record, that it has sold all capacity on the Nimiq 1 and Nimiq 2 satellites to Bell ExpressVu, a Canadian direct-to-home ("DTH") service provider. Shortly after its launch, the Nimiq 2 satellite experienced a power loss resulting in lost satellite communications capacity, prompting Telesat to enter a lease with DirecTV for use of the DIRECTV 3 satellite to replace the Nimiq 2. Telesat indicates that the lease of the DIRECTV

<sup>1</sup> See Letter from James U. Troup and Adrian B. Copiz, Counsel for WSNet Holdings, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, November 15, 2002.

<sup>2</sup> See File Nos. SES-AMD-20030917-01295 and SES-AMD-20030917-01296.

<sup>3</sup> 47 C.F.R. §§ 25.116, 25.151.

<sup>4</sup> Satellite Communications Services re: Satellite Radio Applications Accepted for Filing, *Public Notice*, Report No. SES-00535, rel. Sept. 24, 2003.

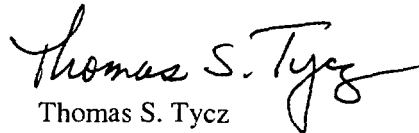
<sup>5</sup> See Applications, Exhibit 2 at 1.

<sup>6</sup> See File No. SAT-STA-20030903-00300, Request for Special Temporary Authority to Relocate DIRECTV 3 to 82° W.L. and to Conduct Telemetry, Tracking, and Command ("TT&C") Operations for an Interim Period, Filed Sept. 3, 2003. This request seeks authority to move the DIRECTV 3 satellite to Nimiq 2's orbital location, 82° W.L. The Nimiq 1 satellite is located at 91° W.L.

3 satellite will restore Bell ExpressVu's capacity.<sup>7</sup> Telesat also notes that "[n]o new capacity or frequencies will be available for use by any other service provider" and that Bell ExpressVu "needs all capacity available at the 82° and 91° W.L. . . . locations for its Canadian DTH service, for new service expansion . . . and to satisfy mandated local television signal carriage requirements."<sup>8</sup>

Given these circumstances, we are requesting that Pegasus indicate how it plans to access and use the Nimiq 1 and Nimiq 2 satellites in order to provide its proposed direct broadcast satellite ("DBS") service to consumers in the United States. We believe that without access to the Nimiq satellites, Pegasus would be unable to offer the DBS service proposed in its Applications, thereby meriting their dismissal. By January 29, 2004, we request that Pegasus confirm, in writing, that it will have access to the Nimiq 1 and Nimiq 2 satellites (*e.g.*, by submitting a copy of a capacity lease agreement with Telesat or Bell ExpressVu) in order to provide the service described in the Applications. If Pegasus cannot confirm that it has made the necessary arrangements for use of capacity on the Nimiq 1 and Nimiq 2 satellites, application File Nos. SES-LIC-20011121-02186 and SES-LIC-20020111-00075 may be subject to dismissal without prejudice to refiling, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), and Sections 25.111 and 25.112, 47 C.F.R. §§ 25.111, 25.112.

Sincerely,



Thomas S. Tycz  
Chief, Satellite Division  
International Bureau

cc: Bruce D. Jacobs  
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<sup>7</sup> See Telesat Canada, Opposition of Telesat Canada re: SAT-STA 20030903-00300, filed Nov. 12, 2003 at 3.

<sup>8</sup> *Id.*