

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In re the Application of)
)
GEE Licensing Holdings LLC) IBFS File Nos. SES-MFS-20210127-00153
) SES-AMD-INTR2021-01957
For Authority to Modify its Earth Stations)
Aboard Aircraft Blanket License (E080100))

To: Chief, Satellite Division

CONSOLIDATED OPPOSITION TO PETITIONS TO DENY IN PART

GEE Licensing Holdings LLC (“Global Eagle”),¹ by counsel, hereby opposes the two Petitions to Deny In Part filed on May 7, 2021 by DISH Network Corporation (“DISH”) and RS Access, LLC (“RS Access”) (hereinafter, respectively the “DISH Petition” and the “RS Access Petition” or, collectively the “Petitions”) in response to Global Eagle’s above-captioned Earth Stations Aboard Aircraft (“ESAA”) blanket Earth station license modification application. Each of the Petitions seeks denial of a discrete portion of the modified authority Global Eagle seeks – its request to receive signals in the 12.2 to 12.75 GHz downlink from the Eutelsat 139 WA satellite at 139.2° West Longitude (Call Sign S3055) (“E139 WA”) and the Hispasat 143 W-1 satellite at 143° West Longitude (Call Sign S3058) (“H143 W-1”). As Global Eagle demonstrates below, neither Petitioner has provided any justification for the denial of this portion

¹ The Petitioners have each identified the applicant as Global Eagle Telecom Licensing Subsidiary LLC, Debtor-in-Possession, which originally submitted the modification application on January 27, 2021. At that time, Global Eagle was in the process of emerging from Chapter 11 bankruptcy, which was completed via sale of the company’s assets on March 23, 2021. When the application appeared on Public Notice a little over two weeks later, the applicant’s name was correctly updated to GEE Licensing Holdings LLC. See FCC Public Notice, Report No. SES-02353 (rel. April 7, 2021). Herein, the applicant is identified simply as Global Eagle, the name under which the business continues to operate.

of Global Eagle's application. Accordingly, the application, as amended, should therefore be processed and granted without delay.

The Petitions are essentially founded on two fundamentally false premises: (1) that an applicant seeking to *receive* downlink signals transmitted by satellite operators pursuant to waivers permitting such operations on a non-protected, non-interference basis must itself make a detailed public interest showing simply to receive these authorized transmissions; and (2) that allowing such a non-conforming use under these limited circumstances somehow undermines both existing FCC rules and future policy options. Neither assertion is valid.

DISCUSSION

1. Both Eutelsat and Intelsat Have Been Granted Waivers to Transmit in the 12.2-12.75 GHz Band, and To The Extent Required, A Waiver Allowing Downlink Access by Earth Stations on the Same Terms is Therefore Appropriate.

DISH aggressively argues that the FCC's rules simply do not authorize the 12 GHz band for use by geostationary Fixed-Satellite Service Earth Stations in Motion, and that the absence of a waiver request in the initial modification application is therefore dispositive with respect to the request to access the downlink frequencies.² But the critical waivers have already been granted. Both Eutelsat and Intelsat (which operates H143 W-1) have obtained authorizations allowing each of them to transmit from space-to-Earth in parts of the 12.2-12.75 GHz band. Both satellite operators are permitted to operate subject to identical conditions providing that each "shall not cause any harmful interference to existing and future authorized users operating in the United States in accordance with the U.S. Table of Frequency Allocations and shall accept any interference in the United States from such authorized users."³ Both licenses also include the

² See DISH Petition at 2-3.

³ Eutelsat, S.A. PDR Grant Stamp, IBFS File No. SAT-PDR-20191017-00115, at 4 (¶ 19(a)) (granted April 8, 2020) ("Eutelsat 139 PDR Grant"); Intelsat License LLC, IBFS File No. SAT-PDR-20191205-00143, at 2 (¶ 8(a)) (granted April 25, 2020) ("Intelsat H143 PDR Grant").

specific provision that the power flux density limits in the band “shall not exceed the limits specified in rule No, 21.16 of the ITU Radio Regulations.”⁴ Each must cease interfering operations in the event that harmful interference is caused to authorized services, and report to the Commission the details of any such incidents of harmful interference.⁵ Global Eagle merely seeks to receive those authorized signals, making use of available satellite capacity to provide better in-flight connectivity service to the U.S. air travelling public.

The foregoing notwithstanding, and observing that prior downlink access to this band has been granted to U.S. Earth station licensees premised on waivers of the FCC’s Rules, Global Eagle has amended its pending application to formally request a waiver of the FCC’s Rules to the extent required to allow the receive operations it proposes in the 12.2-12.75 GHz band. This amendment has been filed contemporaneously with this Opposition and a copy of the narrative exhibit is attached.⁶

2. Petitioners Have Made No Showing That Grant of the Proposed License Modification Would Be Harmful to Them or to Anyone Else.

As a fundamental matter, neither Petitioner even attempts to make a showing that grant of the requested downlink authority would cause any interference to its operations. An Earth station operator’s reception of already authorized satellite transmissions does not increase the likelihood of interference to other transmitting licensees, especially where the transmitting operator is obligated to avoid harmful interference. None of DISH’s assertions regarding the scope of Global Eagle’s service changes this simple fact.⁷

⁴ Eutelsat 139 PDR Grant at 4 (¶ 19(d)); Intelsat H143 PDR Grant at 2 (¶ 8(d)).

⁵ Eutelsat 139 PDR Grant at 4 (¶ 19(b) & (c)); Intelsat H143 PDR Grant at 2 (¶ 8(b) & (c)).

⁶ See Attachment, GEE Licensing Holdings, LLC, Amendment Narrative, IBFS Temporary File No. SES-AMD-INTR2021-01957 (filed May 20, 2021).

⁷ See DISH Petition at 5.

It nonetheless bears noting that only a fractional portion of Global Eagle's remote terminals would operate simultaneously. Moreover, those terminals that are active within CONUS at any one time will utilize multiple satellites, with the active satellite determined by location. As both the E139 WA and H143 W-1 satellites are located over the Pacific Ocean beyond the Western edge of CONUS, each is oriented to serve only the Western portion of the United States.⁸ In addition, multiple frequency bands are active for downlink use on some of these satellites. For all of these reasons, even if it were relevant under these circumstances, the actual scope of operations at 12.2-12.75 GHz is dramatically less extensive than asserted by either DISH or RS Access. More importantly with respect to DISH's operations, the satellites that will be used are not adjacent to or even close to any DISH space station orbital location.⁹

Instead of showing any potential real-world harm that might be suffered by either of them, the objecting parties invoke specious policy arguments for rejecting Global Eagle's request *based on the potential interference to Global Eagle's operations*. This line of argument by itself is an implicit admission that the Petitioners cannot demonstrate any likelihood of interference to their own operations. DISH argues instead that users of Global Eagle's onboard connectivity service might complain to the FCC and try to exert pressure on the Commission in the event of degraded service, seeking to augment Global Eagle's rights or foreclose other

⁸ With respect to RS Access, LLC, Global Eagle notes that the great majority of its 12 GHz spectrum licenses and leases serve areas in the Midwestern and Southeastern United States, and only a handful are in areas west of the Texas Panhandle.

⁹ The principal U.S. DISH DBS satellites are located at the 61.5° W.L., 110° W.L. and 119° W.L. orbital locations, the closest of which is more than twenty degrees distant from either E139 WA or H143 W-1. In the Intelsat H143 PDR Grant, the FCC stated, "Waiver is justified because FCC operation in this band is consistent with No. 5.492 of the ITU Radio Regulations and there are no U.S. BSS satellites transmitting from orbital locations within 14° of the 143° W.L. orbital location." This is an apparent reference to the Ciel-2 satellite located at 128.85° W.L., which is Canadian registered slot, but is used by DISH to provide DBS service in the United States.

spectrum uses.¹⁰ This argument is laughable. Airplane passengers aggrieved at the quality of service don't complain to the federal government, they complain to the airline and, in circumstances involving third-party service providers, the airline complains to that service provider. Airline passengers "do not know or care" about any FCC regulatory factors that might impact their service and certainly have no incentive to involve themselves in the FCC's regulatory and policy proceedings.¹¹

Of similar relevance, RS Access implies vaguely that grant of the downlink access could somehow encumber "evaluation and potential introduction of new 12 GHz services through ongoing rulemaking proceedings."¹² RS Access does not explain how operations limited to non-protected, non-harmful-interference status could have such a preclusive long-term impact, particularly given the relatively long time horizon for FCC rulemaking proceedings. If this argument had merit, it would drastically reduce the scope and efficacy of the FCC's experimental licensing program. Like facilities licensed on an experimental basis,¹³ Global Eagle's operations may not cause harmful interference and are not protected from harmful interference. It is also the case that the ESAA operations are not intended to be permanent, as Global Eagle makes use of multiple satellites subject to limitations, including satellite lifetime and contract duration. The notion that this type of use could derail potential future FCC policy

¹⁰ See DISH Petition at 4. See also RS Access Petition at 2 (arguing Global Eagle's proposed operations could "preemptively foreclose entry by more productive and efficient uses of the 12 GHz band").

¹¹ Compare DISH Petition at 4 ("airplane passengers do not know or care about the secondary status of the service"). Suffice it to say that service users' knowledge of the FCC's spectrum allocation rules is not relevant here, what matters is the licensee's understanding of these rules and its own analysis of its capability to provide acceptable service under the conditions that apply to each frequency band it proposes to use.

¹² RS Access Petition at 3.

¹³ See 47 C.F.R. § 5.84 ("Operation of an experimental radio station is permitted only on the condition that harmful interference is not caused to any station operating in accordance with the Table of Frequency Allocation of part 2 of this chapter").

options for the band does not reflect reality. Indeed, both Petitioners recently made a similar policy argument concerning SpaceX's non-geostationary orbit network application to modify its *transmit* operations in this band, and the FCC's granted the SpaceX application, in part, with a simple condition requiring "conformance with future Commission rulemakings."¹⁴

3. Grant of the Requested Authority Will Serve The Public Interest.

Most importantly, Global Eagle understands and accepts the established limitations on the use of the 12 GHz frequencies and believes that it can continue to offer high quality in-flight connectivity and entertainment service with greater capacity by making use of the spectrum available at 12.5-12.75 GHz on the E139 WA and H 143 W-1 satellites under their U.S. market access authorizations.¹⁵ In particular, Global Eagle accepts that fact that its authorization would be subject to the same non-protected, non-harmful-interference limitations that apply to the transmitting space station operators and all of its operations will be consistent with that limitation. Global Eagle's reception of signals transmitted from the satellites will cause no interference, and it believes that it can operate successfully without suffering significant interference from other users of the band, including the DBS satellite operators and terrestrial users.

Use of a portion of the 12.2-12.75 GHz band will allow Global Eagle to better serve its customers, unlocking access to suitable, cost-effective space segment capacity that is available for use and can improve both the geographic scope and bandwidth available for provision of service that air travelers rely upon for connectivity while in transit. Accordingly, Global Eagle's

¹⁴ *Space Exploration Holdings, LLC*, 36 FCC Rcd 122, 126 (¶ 9) & n.27 and 132 (¶ 19(u)) (IB 2021) (IBFS File No. SAT-MOD-20200417-00037).

¹⁵ While Global Eagle appropriately seeks access to the full 12.2 to 12.75 GHz band in which the H143 W-1 satellite is authorized to transmit via waiver, its present plan is to transmit using both E139 WA and H143 W-1 using only the 12.5-12.75 GHz frequencies.

application should be granted subject to the same conditions that apply to the transmitting satellite operators.

CONCLUSION

For all of the foregoing reasons, the Petitions filed by DISH and RS Access should be denied, and the subject application should be granted expeditiously.

Respectfully submitted,

GEE LICENSING HOLDINGS LLC

By: *s/ David S. Keir*
David S. Keir

Lerman Senter PLLC
2001 L Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 429-8970

May 20, 2021

Its Attorney

ATTACHMENT

Narrative Exhibit to Amendment to Global Eagle's Pending Modification
Application (IBFS Temporary File No. SES-AMD-INTR2021-01957)

AMENDMENT NARRATIVE

In its modification application, Global Eagle seeks FCC authority to receive satellite signals being transmitted within the United States by Eutelsat 139 WA (Call Sign S3055) (“E139 WA”) in the 12.5-12.75 GHz band and by Hispasat 143 W-1 (Call Sign S3058) (“H143 W-1”) in both the 12.2-12.5 GHz and 12.5-12.75 GHz bands. Both satellite operators are permitted to operate in these bands pursuant to waivers of the Commission’s rules allowing them to operate geostationary Fixed-Satellite Service downlinks in these frequencies. These waivers are subject to identical conditions providing that each “shall not cause any harmful interference to existing and future authorized users operating in the United States in accordance with the U.S. Table of Frequency Allocations and shall accept any interference in the United States from such authorized users.”¹ Both licenses also include the specific provision that the power flux density limits in the band “shall not exceed the limits specified in rule No. 21.16 of the ITU Radio Regulations.”² And each satellite operator must cease interfering operations in the event that harmful interference is caused to authorized services, and report to the Commission the details of any such incidents of harmful interference.³

Via its modification application, Global Eagle merely seeks to receive these authorized signals, making use of available space segment capacity to provide better in-flight connectivity and entertainment service to the U.S. air travelling public. Nonetheless, as prior downlink access to this band has been granted to U.S. Earth station licensees premised on waivers of the FCC’s Rules, Global Eagle hereby amends its pending application to formally seek waiver pursuant to Section 1.3 of the FCC’s Rules of Sections 2.106 and 25.202(a)(10)(i) of the Rules to the extent such waivers are required to allow the conditioned receive operations it proposes in the 12.2-12.5 GHz and 12.5-12.75 GHz bands.

Global Eagle understands and accepts the established limitations on the use of the 12 GHz frequencies and believes that it can continue to offer high quality service with greater capacity by making use of the spectrum available at 12.5-12.75 GHz on the E139 WA and H 143

¹ Eutelsat, S.A. PDR Grant Stamp, IBFS File No. SAT-PDR-20191017-00115, at 4 (¶ 19(a)) (granted April 8, 2020) (“Eutelsat 139 PDR Grant”); Intelsat License LLC, IBFS File No. SAT-PDR-20191205-00143, at 2 (¶ 8(a)) (granted April 25, 2020) (“Intelsat H143 PDR Grant”).

² Eutelsat 139 PDR Grant at 4 (¶ 19(d)); Intelsat H143 PDR Grant at 2 (¶ 8(d)).

³ Eutelsat 139 PDR Grant at 4 (¶ 19(b) & (c)); Intelsat H143 PDR Grant at 2 (¶ 8(b) & (c)).

W-1 satellites under their U.S. market access authorizations.⁴ In particular, Global Eagle accepts that fact that its authorization would be subject to the same non-protected, non-harmful-interference limitations that apply to the transmitting space station operators and all of its operations will be consistent with that limitation. Global Eagle's reception of signals transmitted from the satellites will cause no interference, and it believes that it can operate successfully without suffering significant interference from other users of the band, including both the DBS satellite operators and terrestrial users.

Use of a portion of the 12.2-12.75 GHz band will allow Global Eagle to better serve its customers, unlocking access to suitable, cost-effective space segment capacity that is available for use and can improve both the geographic scope and bandwidth available for provision of service that air travelers rely upon for connectivity while in transit. Accordingly, Global Eagle's respectfully requests a waiver of the FCC's Rules as outlined above to the extent required to grant its modification application in its entirety.

⁴ While Global Eagle appropriately seeks access to the full 12.2 to 12.75 GHz band in which the H143 W-1 satellite is authorized to transmit via waiver, its present plan is to transmit using both E139 WA and H43 W-1 using only the 12.5-12.75 GHz frequency band.

CERTIFICATE OF SERVICE

I, Sharon A. Krantzman, do hereby certify that on this 20th day of May 2021, I sent a copy of the foregoing Consolidated Opposition to Petitions to Deny In Part by U.S. first-class, postage prepaid mail to the following:

Pantelis Michalopoulos
Matthew R. Friedman
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795
Counsel to DISH Network Corporation

Jeff Blum
Alison Minea
Hadass Kogan
DISH Network Corporation
1110 Vermont Avenue, NW, Suite 750
Washington, DC 20005

V. Noah Campbell
RS Access, LLC
645 5th Avenue, 10th Floor
New York, NY 10022


Sharon A. Krantzman