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MAR 25 2005

**Federal Communications Commission
Office of Secretary**

March 25, 2005

BY HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
455 12th Street, S.W.
Washington, D.C. 20554

Re: Application of Hughes Network Systems, Inc., Assignor and HNS License Sub, LLC, Assignee, Consolidated Application for Consent to Assignment of Earth Station Licenses and Associated Special Temporary Authority; IB File Nos. SES-ASG-20041223-01892, SES-ASG-20041223-01893, SES-ASG-20041223-01882

Dear Ms. Dortch:

On behalf of ViaSat, Inc. ("ViaSat"), this letter responds to the Joint Response to Comments of ViaSat, Inc. submitted by Hughes Network Systems, Inc. ("HNS") and SkyTerra Communications, Inc. ("SkyTerra") on March 22, 2005 ("Joint Response"). HNS and SkyTerra claim incorrectly that the ViaSat Comments are defective because they do not include an affidavit.¹ The Commission's precedent, however, makes clear that an affidavit is not required where the Commission may take official notice of the facts asserted.² ViaSat's Comments refer

¹ See Joint Response at 3.

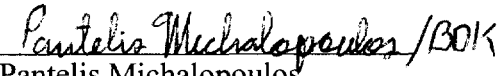
² See, e.g., *See Joint Request for Approval of Settlement Agreement between Caloosa Television Corp. and Fort Meyers Broadcasting Co.*, 19 FCC Rcd 19556, at pp. *10-*11 (Media Bureau, 2004) ("Here FMBC's petition is based on Commission records and precedent, of which we may take official notice.") and *In the Matter of the Application of Mobex Network Services, LLC for Modification of the Licenses for Automated Maritime Telecommunications System Call Sign WHV733*, 18 FCC Rcd 12305, n.16 (Wireless Telecommunications Bureau, 2003) ("Mobex also argues that Havens failed to comply with the 47 C.F.R. § 1.939(d) requirement that

(Continued ...)

to information that HNS and SkyTerra themselves provided in the applications regarding ownership interests, and to factual market information with which the Commission is at least generally familiar already. This is the type of information of which the Commission may take official notice, and thus no affidavit is necessary. Nevertheless, out of an abundance of caution, ViaSat is hereby submitting a signed declaration from Keven Lippert, Associate General Counsel of ViaSat, on the factual accuracy of its Comments, and requests that the Commission associate the Declaration with its Comments. Finally, even if this were a true defect, HNS and SkyTerra are wrong that summary dismissal would be appropriate.³ Please contact the undersigned if you have any questions about the foregoing.

Respectfully submitted,

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Enclosures

allegations of fact in a petition to deny be supported by an affidavit. No affidavit is needed in this case, however, because all of the operative facts -- largely regarding what Mobex filed in 2000 and 2002 -- are of the type for which we can take official notice.”)

³ The cases the applicants cite in support of this claim are completely inapplicable because they apply rules that unlike 47 C.F.R. § 25.154 do not provide that the Commission will treat filings that do not meet all applicable procedural requirements as informal objections. See *Application of KGET (TV), Inc. for Renewal of License of Station KGET (TV), Bakersfield, California*, Memorandum Opinion and Order, 11 FCC Rcd 4168, at ¶ 3 (1996). The dismissal of a petitioner in this cases was based on the 1996 version of 47 C.F.R. § 73.3584(d), which did not have a provision for informal objections. The applicants also cite *Claircom Communications Group, L.P.*, Memorandum Opinion and Order, 8 FCC Rcd 7258, at ¶ 2 (MSD 1993). Again the dismissal in this case was based on the 1993 version of 47 C.F.R. § 22.30, which did not have a provision of informal objections. By contrast, Section 25.154(b) states that the “Commission will classify as informal objections: ... [a]ny pleading not filed in accordance paragraph (a) of this section [filing requirements for petitions to deny, petitions for other relief or comments].”

Marlene H. Dortch
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CC:

Thomas S. Tycz
Jeanette Spriggs
John P. Janka
Tom W. Davidson

Declaration of Keven Lippert

I, Keven Lippert, Associate General Counsel of ViaSat, Inc., hereby declare under the penalty of perjury that I have read the Comments of ViaSat, Inc. submitted on March 16, 2005 and the representations, information, and facts set forth therein are true and correct to the best of my knowledge and belief.



Keven Lippert
Associate General Counsel
ViaSat, Inc.

March 25, 2005