



Federal Communications Commission
Washington, D.C. 20554

DA 07-1361

March 20, 2007

Stephen D. Baruch
Leventhal Senter & Lerman PLLC
2000 K Street, N.W., Suite 600
Washington, DC 20006

Re: Call Sign E970322
File No. SES-MFS-20060615-01010
File No. SES-AMD-20061213-02137

Dear Mr. Baruch:

On June 15, 2006, Lockheed Martin Corporation (Lockheed Martin) filed the above-captioned application to modify an earth station license to change the authorized point of communication. Lockheed Martin amended the application on December 13, 2006. Specifically, Lockheed Martin seeks authority to communicate with the United Kingdom's Inmarsat-3F4 satellite located at the 142° W.L. orbit location using certain L-Band¹ and extended C-Band² frequencies. In its application, Lockheed Martin also seeks to remove other L-Band³ and extended C-Band⁴ frequencies from its license. For the reasons stated below, pursuant to Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. §25.112(a)(1), we dismiss the application, as amended, as defective without prejudice to refile.

Section 25.137 of the Commission's rules, 47 C.F.R. § 25.137, requires applicants seeking to operate with a non-U.S. licensed satellite to provide the same technical information regarding the satellite as applicants seeking U.S. licenses must file with respect to their proposed satellites. U.S. space station applicants must file FCC Form 312, together with Schedule S and other information required by Section 25.114(d) of the Commission's rules, 47 C.F.R. § 25.114(d).

Lockheed Martin indicates in its modification application that it is not seeking to add a non-U.S.-licensed satellite as a point of communication but rather is modifying its license to permit it to continue to communicate with a satellite with which it has long been authorized to communicate, following that satellite's relocation by its operator to a new orbit location.

¹ 1574.4-1576.443 MHz band.

² 3629.4-3631.443 and 6454.397-6456.443 MHz bands.

³ 1545.8-1548.0 MHz band.

⁴ 6440.8-6443.0 MHz band.

Lockheed Martin argues that Section 25.137 therefore does not apply to its modification application. In the alternative, Lockheed Martin seeks a waiver of this rule.

The Commission may grant a waiver for good cause shown.⁵ 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.⁶ Circumstances that would justify a waiver include "considerations of hardship, equity, or more effective implementation of overall policy."⁷ 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.⁸

The purpose of Section 25.137 is to ensure that the Commission has sufficient technical information to make a finding that authorizing a non-U.S. licensed satellite to provide service to the United States will not cause interference to other authorized U.S. operations. We cannot make such a finding here without additional technical information. While Inmarsat-3F4 previously served the United States from the 54° W.L. orbital location without interference, this does not mean that it will similarly operate compatibly at the 142° W.L. orbital location. The interference potential of a particular satellite depends upon its orbital spacing from adjacent satellites, the types of services the adjacent satellite is providing, and which transponders it uses to provide those services. Thus, the interference potential of a satellite varies with its orbit location. Consequently, without additional technical information, we cannot determine whether allowing Inmarsat-3F4 to provide service to the United States from the 142° W.L. orbital location will interfere with satellites operating in the same portion of the orbital arc.

Moreover, we note that the Commission generally requires a Schedule S for non-U.S.-licensed satellites if that information is not already on the record, even for satellites that are already in orbit and coordinated.⁹ This is to allow the Commission to determine whether the non-U.S.-licensed satellite meets the Commission's technical requirements. In addition to determining whether the non-U.S.-licensed satellite would cause harmful interference to currently operating satellites, as discussed above, this information is necessary for determining whether the satellite's operations could interfere with other satellites authorized to serve the U.S. market in the future. We therefore deny Lockheed Martin's request for a waiver of Section 25.137.

Accordingly, we dismiss Lockheed Martin's applications without prejudice, as defective. If Lockheed Martin wishes to refile the application, it should provide the following information with respect to the Inmarsat-3F4 satellite:

⁵ 47 C.F.R. § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁶ See *Northeast Cellular*, 897 F.2d at 1166.

⁷ *WAIT Radio*, 418 F.2d at 1159. See also *Onsat Petition for Waiver to Permit Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band*, *Order*, 15 FCC Rcd 24488, 24490 (para. 5) (Int'l. Bur., 2000).

⁸ See *WAIT Radio*, 418 F.2d at 1157.

⁹ See Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10872 (para. 300) (2003).

(1) All the information specified in Section 25.114(d) of the Commission's rules, 47 C.F.R. § 25.114(d).

(2) A Schedule S, as required by Section 25.114(a) of the Commission's rules, 47 C.F.R. § 25.114(a).

If Lockheed Martin chooses to refile the application, we request that Lockheed Martin pay particular attention to the frequency band and bandwidths with which the earth station will operate. We note that another application proposed to provide the same service via the same satellite with slightly different operating frequencies.¹⁰ Consequently, we request Lockheed Martin to verify that its proposed operating frequencies are correct before any refiling.

Accordingly, pursuant to Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. §25.112(a)(1), and Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. §0.261, we dismiss the above-captioned applications without prejudice to refiling.¹¹

Sincerely,



Scott A. Kotler
Chief, Systems Analysis Branch
Satellite Division
International Bureau

¹⁰ See File No. SES-MFS-20060725-01253 as amended by SES-AMD-20060804-01310, SES-AMD-20060918-01749, and SES-AFS-20061115-02010.

¹¹ If Lockheed Martin refiles an application identical to the one dismissed, with the exception of supplying the corrected information, it need not pay an application fee. See 47 C.F.R. Section 1.1109(d).