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VIA HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, NW
Washington, DC 20554

Re: Lockheed Martin Corporation Petition for Reinstatement Of Expired Licenses E920702 and E7541
File Nos. SES-RWL-19970808-01083; SES-MOD-20001130-02268

Dear Ms. Dortch:

Lockheed Martin Corporation ("Lockheed Martin"), by its attorneys, respectfully requests that its licenses for a Ku-band fixed-satellite service transmit/receive earth station, Call Sign E920702, and for a C-band fixed-satellite service transmit/receive earth station, Call Sign E7541, both located in Carpentersville, New Jersey, be reinstated. The licenses for Stations E920702 and E7541 expired on August 3, 2007, without renewal applications having been timely filed. Lockheed Martin never intended for these licenses to expire, and its failure to timely file renewal applications was a regrettable oversight. These earth stations are a critical part of Lockheed Martin's commercial space and launch services apparatus, and are used on a periodic basis to provide important telemetry, telecommand and control ("TT&C") services to spacecraft that are in the injection or transfer-orbit phases of post-launch operations. Lockheed Martin considers it essential that the licenses for Station E920702 and Station E7541 be reinstated so that their critical operations are available for future customers.

Lockheed Martin did not realize that the subject station licenses had expired until May 6, 2008. The discovery was made in the course of unrelated internal discussions concerning proposed operation of the E920702 antenna. Station E920702 was operated during twelve days in 2007 following the expiration of the license (specifically, August 9, 15-18, and 28; and November 18, 20-21, and 23-25). In 2008, the station has been operated intermittently on each

day beginning with the March 15 launch of the satellite formerly known as AMC-14. That satellite, for which Station E920702 was to perform transfer-orbit TT&C, suffered a launch anomaly. Station E920702 continues to be used as part of the global network that controls the satellite – a function that requires intermittent daily transmission – to provide TT&C services while the spacecraft is being moved into a safe orbit, pending a determination on its future disposition. A request for special temporary authority to allow Lockheed Martin to use Station E920702 to perform these services vital to the health and safety of the satellite in question was granted, with conditions, on May 12, 2008. *See* Request of Lockheed Martin Corporation for Special Temporary Authority for Operation of Call Sign E920702, File No. SES-STA-20080508-00569. Station E7541, in contrast, is not transmitting in any capacity today. From August 3, 2007 to the present, Station E7541 was operated only intermittently during four days in March, 2008 (specifically, March 19 to March 22) in support of the transfer-orbit maneuvers of a satellite that Lockheed Martin had manufactured.

Grant of Lockheed Martin's Petition for Reinstatement of the licenses for Stations E920702 and E7541 is required in the public interest. The TT&C services that Lockheed Martin supplies for newly-launched, as well as distressed, satellites are not routinely available from other sources, and are essential to ensure both the accurate injection of new spacecraft into their proper orbits and orbital locations and the protection of existing spacecraft. The current situation with the provision of TT&C services by Station E920702 for the satellite formerly known as AMC-14, where control of the satellite not only preserves the status quo pending a determination on the future disposition of the spacecraft, it helps ensure the safety of myriad other space assets deployed and relied upon by operators around the world. In addition, Lockheed Martin maintains both Station E920702 and Station E7541 as part of a global network of TT&C stations, and the lack of authority for these stations could have broad ramifications for the satellite manufacturing and launch services industries. Importantly, there is no entity that would be prejudiced by reinstatement of the authority for Station E920702 or Station E7541 that was held by Lockheed Martin and its predecessors in interest for more than 14 years (in the case of E920702) and since the mid-1980s (in the case of E7451). Moreover, there have been no technical changes to the licensed antenna facilities for Station E7541.

In advancing this Petition for Reinstatement, Lockheed Martin requests the Commission to waive the operation of Section 25.163(a)(1) of the Commission's Rules, 47 C.F.R. § 25.163(a)(1), and to consider this application for reinstatement even though it is filed more than 30 days after the expiration date of the licenses for Station E920702 and Station E7541. Waivers are appropriate when the underlying purpose of the rule in question would not be disserved or would be frustrated by application to the instant case, and a grant of the waiver would be in the public interest. Alternatively, a waiver is appropriate when, in view of the unique or unusual factual circumstances, application would be inequitable, unduly burdensome, or contrary to the public interest and the applicant has no reasonable alternative. *See, e.g., WAIT Radio v. FCC,* 418 F.2d 1153 (D.C. Cir. 1969). *Cf.* 47 C.F.R. § 1.925(b). Circumstances that would justify a waiver include "considerations of hardship, equity, or more effective implementation of overall policy." *NetSat 28 Company, LLC*, 16 FCC Rcd 11025, 11027 (Int'l. Bur. 2001).

In the case of Lockheed Martin, a waiver of the 30-day time limit for seeking reinstatement would not undermine the purpose of the rule. Notably, the rule does not prohibit requests for reinstatement of licenses that expire in the ordinary course; it merely addresses the time for submission of reinstatement petitions such as the one Lockheed Martin puts forth herein. Thus, it is the timing of the request for reinstatement, rather than the request itself, that must be examined. The rule calls for submission of requests within 30 days after expiration of the license. Lockheed Martin is submitting this request for waiver within 8 business days after it discovered that the subject licenses had expired.

If swift action is a purpose of the rule, Lockheed Martin's swift submission of its Petition for Reinstatement serves that purpose. If the purpose is to avoid uncertainty and prejudice to others who may have relied on the absence of a license in the interim period between 30 days after expiration and the submission of the petition for reinstatement, that purpose too is not disserved in this case. Regarding Station E920702, the Ku-band frequencies authorized to Lockheed Martin for that station are not shared on a co-primary basis with terrestrial facilities. All operations comply with the Commission's two-degree spacing requirements or are coordinated on a case-by-case basis. No one could be prejudiced by Station E920702's reinstatement. The C-band frequencies authorized to Lockheed Martin on Station E7541 are shared on a co-primary basis with terrestrial facilities. The east coast location of the facility is such that the coordination area for Station E7541 is wholly encompassed within the coordination areas of other C-band earth stations, and new terrestrial facilities would generally have been unable to take advantage of the absence of the license for Station E7541 to be licensed in the interim. *See* Letter dated November 16, 2001, in File No. SES-MOD-20001130-02268 (Further Supplemental Information in Support of Modification of License for Station E7541).

As Lockheed Martin noted in connection with the 2000 modification of license proceeding for Station E7541, the facility itself is located in a very rural area. The antennas are located deep within a working stone quarry, and are shielded by terrain from terrestrial interference. The shielding, in fact, is increasing, as rubble from the quarrying activities is deposited on the top of the quarry ridges. Indeed, the only practical way a terrestrial transmitter could interfere with the earth station would be if a co-frequency transmitter were installed on the rim of the quarry and pointed straight down into the earth station antennas. *See* Modification of License Application of Lockheed Martin Corp., File No. SES-MOD-20001130-02268, at Exhibit 1 (Q35). Lockheed Martin understands, and is seeking confirmation through Comsearch, that there are currently no co-frequency wireless towers in any service located within the line of sight of the earth station antennas.

Lockheed Martin does not seek to excuse its failure to timely file applications for renewal of the licenses for Station E920702 and Station E7541. By way of explanation, as specified in Section 25.163(a)(2), Lockheed Martin is one of the nation's largest corporations with a presence in 46 states, and it has diverse and far-ranging transmission capabilities and requirements that cross the nation. The corporation has been moving toward a centralized internal policy – including education of company personnel – with respect to the licensing of

regulated communications devices, and its overall success in this effort is impressive. Regrettably, an occasional misstep can occur, and it is the corporation's practice to deal with these missteps in as rapid and forthright a manner as possible. The realization that the licenses for Station E920702 and Station E7541 had lapsed came on May 6, 2008, when an employee at the Carpentersville, NJ earth station facility made an inquiry regarding operation of the facility's Ku-band antenna. As soon as the realization was made, corporate efforts began to discern the facts, disclose the situation to relevant Commission personnel, and to start to restore the authorizations.

Lockheed Martin is also compliant with Section 25.163(a)(3). To ensure that filings are timely made in the future, Lockheed Martin has established a matrix for the Carpentersville, NJ earth station licenses that includes relevant dates for Commission filings – including the dates for renewal applications and extensions (if needed) of requests for special temporary authority. This matrix is now maintained by Lockheed Martin's Government & Regulatory Affairs office, and in parallel by the corporation's outside regulatory counsel. Responsible individuals in both the Lockheed Martin business that operates the Carpentersville, NJ facility, and at the station site itself, have been apprised of the need for strict adherence to regulatory requirements applicable to the earth station facility.

Thus, in addition to not disserving the policy behind Section 25.163(a)(1), Lockheed Martin fully satisfies the requirements of Sections 25.163(a)(2) and (a)(3). Moreover, there is no question that a grant of the requested waiver of the deadline for submission of petitions for reinstatement would advance the public interest. As noted, Lockheed Martin's Carpentersville, NJ earth station facilities provide TT&C services that are essential for the control of spacecraft during transfer-orbit operations. If the stations' ability to continue to provide services is adversely impacted, operators of newly-launched spacecraft around the world would have essential and immediate needs that will go unmet. In addition, the risk of damage or destruction to existing spacecraft and the communications services they provide from uncontrolled or inadequately controlled spacecraft would be unacceptably increased.

In the case of Station E7541, a further public interest consideration stems from the fact that a number of rule provisions were examined in detail from 2000-2002, when the license was modified to include receive capability at 3650-3700 MHz on a "grandfathered" basis. *See* Modification of License Application of Lockheed Martin Corp., File No. SES-MOD-20001130-02268, as amended. Reinstatement of Lockheed Martin's license for Station E7541 would allow the Commission to avoid having to reassess and revisit all of the materials and issues – many of which are fact-specific and unique to the situation of the Carpentersville, NJ facility – in a potentially protracted re-licensing proceeding.

Lockheed Martin emphasizes that as there are no countervailing interests that would be prejudiced by reinstatement of the licenses for Station E7541 and Station E920702, preservation of administrative resources that would be used to evaluate and process new applications with full technical showings is a public interest benefit. The alternative formulation of the waiver standard from Section 1.925(b) of the Commission's Rules – i.e., waiver is

appropriate where the unique or unusual factual circumstances of the case make application of the rule in question inequitable, unduly burdensome, or contrary to the public interest – is satisfied by the reinstatement of the Station E7541 and Station E920702 licenses and avoidance of a protracted and burdensome *de novo* re-licensing process.

In sum, the waiver Lockheed Martin requests here of the provision of Section 25.163(a) requiring petitions for reinstatement of expired licenses to be submitted within 30 days of the license's expiration should be granted, and Lockheed Martin's Petition for Reinstatement should be accepted.

In the event that the Commission grants the instant Petition for Reinstatement, Lockheed Martin respectfully requests that it be enabled to file its renewal applications for Station E920702 and Station E7541 electronically through IBFS. Lockheed Martin intends to file these renewal applications within 3 business days following grant of its Petition for Reinstatement.

For the foregoing reasons, Lockheed Martin respectfully requests that the Commission reinstate its licenses for Station E7541 and Station E920702 *nunc pro tunc*, and permit it to file renewal applications for these stations electronically through IBFS.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Stephen D. Baruch /pab

Stephen D. Baruch
Attorney for Lockheed Martin Corporation

cc: Scott Kotler (via email)