



Federal Communications Commission
Washington, D.C. 20554

DA 06-1396

July 6, 2006

Mr. Michael J. Beattie
Datapath, Inc.
2450 Satellite Blvd
Duluth, GA 30096-5801

Re: Call Sign: E060075
File No. SES-MOD-20060605-00924

Dear Mr. Beattie:

On June 5, 2006, Datapath, Inc. (Datapath) filed the above-captioned application to modify its license for an earth station in Duluth, Georgia to add antennas, add Ka-band¹ frequencies, and add the AMC-15 satellite at 105° W.L., AMC-16 satellite at 85° W.L., and WGS GapFiller satellite at 123° W.L. as points of communication. For the reason explained below, we dismiss the application as defective without prejudice to refileing.

Section 25.115(e) of the Commission's rules provides that "Applications to license individual earth stations operating in the 20/30 GHz band shall be filed on FCC Form 312, Main Form and Schedule B, and shall also include the information describe in Section 25.138." Datapath did not submit antenna radiation patterns required by Section 25.138(d). Thus, the application is incomplete.

Additionally, the WGS GapFiller satellite is a U.S. Government satellite authorized by the National Telecommunications and Information Administration (NTIA). Nothing in the Commission's rules requires earth station operators seeking Commission authority to communicate with a U.S. Government satellite to provide technical information regarding the satellite. Without this information, however, we cannot determine whether the proposed operations are likely to cause harmful interference to any other Commission-licensed operations.² Therefore, in any refileing we request Datapath to include the following information with respect to the WGS GapFiller satellite:

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

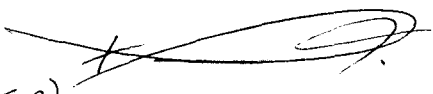
(2) A Schedule S, as required by Section 25.114(a) of the Commission's rules, 47 C.F.R. § 25.114(a).

¹ 18.6-18.8, 19.7-20.2, 28.4-28.6, and 29.5-30.0 GHz bands.

² See Letter from Scott A. Kotler, Chief, Systems Analysis Branch, FCC to Otis B. Brown, Dean, Rosenstiel School of Marine & Atmospheric Sciences, University of Miami (dated September 27, 2005).

Accordingly, pursuant to Section 25.112(a)(1)³ 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 application as defective without prejudice to refiling.⁴

Sincerely,


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

³ 47 C.F.R. § 25.112(a)(1). *See also* Echostar Satellite LLC, *Order on Reconsideration*, DA 04-4056 (released December 27, 2004).

⁴ If Datapath refiles an application identical to the one dismissed, with the exception of supplying the requested information, it need not pay an application fee. *See* 47 C.F.R. § 1.1109(d).