

Before the  
Federal Communications Commission  
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Intelsat LLC	)	IBFS File Nos. SES-MOD-20090609-00714;
	)	SES-MOD-20090609-00715; SES-MOD-
Applications For License Modifications to Permit	)	20090609-00716; SES-MOD-20090609-
Continued Operation in the 3650-3700 MHz	)	00717; and SES-MOD-20090609-00718
Frequency Band on a Co-primary Basis with	)	
Terrestrial Fixed Services	)	Call Signs: E030082, E030071, E030101,
	)	E030103, and E030100

**ORDER AND AUTHORIZATION**

Adopted: March 7, 2011

Released: March 7, 2011

By the Chief, Satellite Division, International Bureau:

**I. INTRODUCTION**

1. In this Order, we authorize Intelsat LLC (Intelsat) to operate five earth stations located in Hagerstown, Maryland (Call Signs: E030082, E030071, E030101, E030103, and E030100) in the 3650-3700 MHz “extended” C-band frequencies on a co-primary basis with terrestrial services.<sup>1</sup> In doing so, we waive Section 2.106, Footnote NG169, of the Commission’s rules, which limits co-primary status for fixed-satellite service earth stations in these frequencies to certain “grandfathered” stations in operation prior to December 1, 2000.<sup>2</sup> This action will facilitate Intelsat’s decision to transfer customers operating in the 3650-3700 MHz band from grandfathered earth stations in Clarksburg, Maryland, to the earth stations in Hagerstown. We find that waiver in this instance serves the public interest by permitting Intelsat to continue to provide important fixed-satellite services, without undermining the objectives of Footnote NG169.

**II. BACKGROUND**

**A. Procedural History**

2. Prior to 2000, the 3650-3700 MHz band was allocated for Federal Government radiolocation services and non-Government international, intercontinental fixed-satellite service (FSS) systems (space-to-Earth) on a co-primary basis. In October 2000, the Commission added an allocation in the 3650-3700 MHz band to non-Federal Government fixed and mobile terrestrial services (FS and MS respectively) on a co-primary basis.<sup>3</sup> At the same time, the Commission changed the FSS allocation in the 3650-3700

<sup>1</sup> The 3625-3700 MHz downlink segment and the 5850-5925 MHz uplink band are traditionally known as “extended C-band” frequencies. The 3700-4200 MHz downlink segment and the 5925-6425 MHz uplink segment are known as “C-band.”

<sup>2</sup> 47 C.F.R. § 2.106, Footnote NG169.

<sup>3</sup> *Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band; 4.9 GHz Band Transferred from Federal Government Use*, First Report and Order and Second Notice of Proposed Rule Making, 15 FCC Rcd 20488 (2000) (*3650 MHz Allocation Order*), *recon granted in part, denied in part by* (continued....)

MHz band to secondary status, but grandfathered existing FSS earth stations on a primary basis and established that any additional applications for primary FSS earth stations had to be located within 10 miles of existing grandfathered sites and had to be submitted prior to December 1, 2000.<sup>4</sup> Additional FSS earth station operations could be authorized after December 1, 2000 – but only on a secondary basis.<sup>5</sup> In order to protect against harmful interference from FS and MS operations, a 150-kilometer circular “protection zone” was established around each grandfathered FSS earth station in which terrestrial FS and MS licensees are required to coordinate their operations with the FSS earth station licensee.<sup>6</sup> The Commission limited primary status of FSS operations in the 3650-3700 MHz band to grandfathered earth stations because it was concerned that additional FSS earth station deployments would increase the number and size of protection zones, which would consequently increase the difficulty and costs of coordination for terrestrial FS and MS operations and could hinder the opportunities for terrestrial operations in the band.<sup>7</sup> The changes were codified in Footnote NG169 of the U.S. Table of Frequency Allocations.<sup>8</sup>

### B. Intelsat’s Application

3. Intelsat’s earth stations in Clarksburg, Maryland, are grandfathered because they were licensed to operate in the 3650-3700 MHz band prior to December 1, 2000.<sup>9</sup> In its June 9, 2009 application, as supplemented, Intelsat indicates that it is relocating the currently grandfathered Clarksburg, Maryland, operations in the 3650-3700 MHz band to Hagerstown, Maryland, because it is losing access to the Clarksburg site due to circumstances beyond its control.<sup>10</sup> Specifically, Intelsat explains that the owner of the Clarksburg site, LCOR, a real estate developer in no way affiliated with Intelsat, has declined Intelsat’s attempts to extend the lease beyond September 2013.<sup>11</sup>

4. Intelsat seeks a waiver of Section 2.106, Footnote NG169, to authorize FSS operations via the Hagerstown earth stations on a co-primary basis with terrestrial services.<sup>12</sup> Intelsat argues that waiver

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Memorandum Opinion and Order, 20 FCC Rcd 6502 (2005), *amended by* Memorandum Opinion and Order, 22 FCC Rcd 10421 (2007).

<sup>4</sup> *Rules for Wireless Broadband Services in the 3650-3700 MHz Band*, Report and Order and Memorandum Opinion and Order, 20 FCC Rcd 6502, 6505 ¶ 7 (2005)(*Extended C-band Order*).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*, 20 FCC Rcd at 6524 ¶ 60.

<sup>7</sup> *Id.*, 20 FCC Rcd at 6508 at ¶ 18.

<sup>8</sup> See *supra*, note 2.

<sup>9</sup> See call signs KA259, KA260, KA261, KA262, KA263, KA264, and KA275.

<sup>10</sup> See December 8, 2010 supplement. See also February 4, 2011 supplement at 2 *citing* Intelsat, Ltd., Annual Report (Form 10K), at 111 (April 16, 2006) available at <http://www.sec.gov/Archives/edgar/data/1156871/000119312506081358/d10k.htm> (“[P]otential local development initiatives have occurred that have had or are reasonably expected to have a material adverse effect on our use of the Clarksburg facilities.”).

<sup>11</sup> See December 8, 2010 supplement. Intelsat states that LCOR leased the property to Comsat World Data Systems (Comsat) prior to Intelsat’s acquisition of Comsat in 2002, that it has no knowledge of when LCOR acquired the Clarksburg property, or from whom, and that neither Intelsat nor its predecessor in interest, the intergovernmental entity INTELSAT, ever held an ownership interest in the Clarksburg property or in LCOR. See February 4, 2011, supplement at 1-2.

<sup>12</sup> As part of this waiver, Intelsat requests that we delete Special Provision 5803 from the above-captioned Hagerstown earth-station licenses, which limits operations in the 3650-3700 MHz band to a secondary basis.

would not undermine the objectives of Footnote NG169 because its proposal to allow the Hagerstown earth stations to provide FSS with primary status would not expand the geographic area within which terrestrial operators must coordinate their operations with Intelsat. Intelsat observes that terrestrial FS and MS operators are currently required to coordinate their operations within a circular 150-km zone centered on Intelsat's existing Clarksburg earth stations. Intelsat states that the Hagerstown earth stations are slightly less than 60 kilometers from the Clarksburg earth-stations and slightly more than 90 kilometers away from the edge of the existing 150-km circular zone. Intelsat proposes to maintain a protection zone for the Hagerstown earth stations the radius of which is the distance between the earth stations and the edge of the current protection zone of the grandfathered Clarksburg earth stations, *i.e.* 90 kilometers. Thus, the proposed protection zone in which FS and MS operations would be required to coordinate with Intelsat for the Hagerstown earth stations is contained wholly within – and is significantly smaller than – the existing coordination zone for the Clarksburg stations.

5. Intelsat currently operates thirteen of its fifty satellites in the 3650-3700 MHz band and requires use of the band until all satellites have been removed from service and current customers transitioned to other bands. It is anticipated that the last satellite will remain in service until September 2025.<sup>13</sup> In an August 24, 2009 supplement, Intelsat states that it would accept a condition removing the grandfathered primary status of the Clarksburg earth stations in the 3650-3700 MHz band six months after the Commission's grant of Intelsat's waiver application. Intelsat states that it would be in the public interest to allow Intelsat to continue to operate the Clarksburg earth stations on a primary basis for six months after the grant of its waiver request in order to transition customers from the Clarksburg earth stations to the Hagerstown earth stations.

6. On October 21, 2009, the Commission released a Public Notice accepting Intelsat's application for filing.<sup>14</sup> No comments were received in response to the Public Notice.

### III. DISCUSSION

7. The Commission may waive a rule for good cause shown.<sup>15</sup> Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than would strict adherence to the general rule.<sup>16</sup> Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would: (1) not undermine the policy objective of the rule in question; and (2) otherwise serve the public interest.<sup>17</sup>

8. We find that the record before us, which includes details relating to land ownership, leases and Intelsat's earth station operations in the 3650-3700 MHz band,<sup>18</sup> lays the basis for FCC waiver of Footnote NG169, which limits operations on a primary basis by the fixed-satellite service (space-to-Earth) in the band 3650-3700 MHz to grandfathered earth stations.<sup>19</sup> Based on this record, Intelsat has established that moving the stations from Clarksburg to Hagerstown is being forced by factors outside its

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<sup>13</sup> See *SES-MOD-20090609-00714 November 15, 2010 Statement*.

<sup>14</sup> Public Notice, Satellite Communications Services: Satellite Radio Applications Accepted for Filing, Report No. SES-01184 (October 21, 2009).

<sup>15</sup> 47 C.F.R. § 1.3.

<sup>16</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

<sup>17</sup> *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Dominion Video Satellite, Inc.*, Order and Authorization, 14 FCC Rcd 8182 (Int'l Bur. 1999).

<sup>18</sup> See, *e.g.*, paragraph 3, *supra*.

<sup>19</sup> See footnote 2, *supra*.

control (*i.e.*, the loss of the lease at Clarksburg).<sup>20</sup> As such, we agree with Intelsat that grant of the requested waiver does not undermine the objectives of Footnote NG169. Intelsat does not seek co-primary status for its Hagerstown earth stations outside of the 150-kilometer circular protection zone already established for the grandfathered Clarksburg earth stations. Rather, Intelsat proposes a significantly smaller coordination zone than the existing zone for the Clarksburg earth stations. As a result, FS and MS operators will be able to operate without coordination with Intelsat in areas close to the Clarksburg earth stations that currently require prior coordination.<sup>21</sup> Thus, permitting the Hagerstown earth stations to operate in the 3650-3700 MHz band on a primary basis will not increase the number or size of protected zones, which was the primary concerns that Footnote NG169 was designed to address.<sup>22</sup> In addition, waiver of Footnote NG169 for the Hagerstown earth stations will permit Intelsat to continue to provide important international fixed-satellite services to its customers.<sup>23</sup> Furthermore, this grant of this request applies only to previously authorized space station currently in the Intelsat operational fleet.

9. We also agree that the six-month period proposed by Intelsat to continue operations from the Clarksburg earth stations in the 3650-3700 MHz band on a primary basis is a reasonable maximum amount of time to transition existing customers in that band from the Clarksburg to Hagerstown earth stations, and that such a transition period serves the public interest. In order to provide clear notice of the end of this transition period, Intelsat must notify the Commission in writing within five business days after the last customer has been transitioned to the Hagerstown earth stations, acknowledging the cessation of primary status of the Clarksburg earth stations in the 3650-3700 MHz band as of that date.

#### IV. CONCLUSION

10. Based upon the foregoing, we conclude that grant of the above-captioned applications, as conditioned herein, will serve the public interest, convenience, and necessity.

#### V. ORDERING CLAUSES

11. Accordingly, pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, Intelsat's request for waiver of Section 2.106 of the Commission's rules, Footnote NG169 to the U.S. Table of Frequency Allocations, to allow five of Intelsat's Hagerstown, Maryland, earth stations (Call Signs: E030082, E030071, E030101, E030103, and E030100) to operate in the 3650-3700 MHz band on a co-primary basis with terrestrial fixed and mobile services, with a 90-kilometer circular protection zone around the earth stations, IS GRANTED for communication with satellites listed in the Appendix to this Order.<sup>24</sup>

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<sup>20</sup> See February 4, 2011 supplement.

<sup>21</sup> While Intelsat occasionally uses the term "exclusion zones" to refer to these areas; we read this as a short-hand reference to the coordination/protection zones.

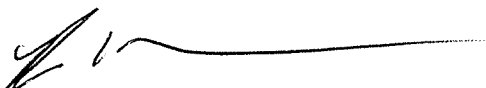
<sup>22</sup> See footnote 7, *supra*, and accompanying text.

<sup>23</sup> Intelsat states that the Hagerstown earth stations will provide critical commercial international fixed-satellite services, including "launch and early orbit" operations services that ensure the safe launch and operation of new satellites and are provided by only a limited number of earth stations. See File No. SES-MOD-20090609-00714, Response to Question 35: Request for Waiver at 2. Additionally, Intelsat states that all of the grandfathered Clarksburg antennas provide commercial services that are non-preemptible managed services with connectivity mostly to/from Africa, that some of its customers are resellers, and that due to capacity constraints, Intelsat may not be able to move the customers in these frequencies to other C-band frequencies. See February 4, 2011 supplement at 3.

<sup>24</sup> See SES-MOD-20090609-00714 November 15, 2010 Statement.

12. IT IS FURTHER ORDERED that the grandfathered primary status of Intelsat's earth stations located at Clarksburg, Maryland, (Call Signs: KA259, KA260, KA261, KA262, KA263, KA264, and KA275) in the 3650-3700 MHz band will cease no later than six months after the date of release of this Order. Intelsat must notify the Commission in writing within five business days after the last customer has been transitioned to the Hagerstown earth stations, acknowledging the cessation of primary status of the Clarksburg earth stations in the 3650-3700 MHz band, as set forth in this Order.

FEDERAL COMMUNICATIONS COMMISSION



Robert G. Nelson  
Chief,  
Satellite Division  
International Bureau

## Appendix

**Intelsat In-orbit Satellites With the Band 3,650-3,700 MHz  
and Visible From Mountainside**

<b>Orbital Location (°W)</b>	<b>Satellite</b>	<b>EOML<sup>25</sup> (Station-kept unless otherwise specified)</b>
55.5	IS 805	June 2016
34.5	IS 903	April 2019
31.5	IS 25	September 2025
29.5	IS 801	May 2013 (IOO <sup>26</sup> )
27.5	IS 907	October 2021
24.5	IS 905	January 2021
18	IS 901	July 2019

**Other Intelsat In-orbit Satellites With the Band 3,650-3,700 MHz**

<b>Orbital Location (°E)</b>	<b>Satellite</b>	<b>EOML</b>
359	IS 10-02	January 2022
47.5	IS 601	November 2011 (IOO)
60	IS 904	January 2020
62	IS 902	February 2020
64	IS 906	November 2021
68.5	IS 7	March 2016

<sup>25</sup> EOML stands for End Of Maneuver Life

<sup>26</sup> IOO stands for Inclined Orbit Operation