

MODIFICATION APPLICATION

Hawaii Pacific Teleport L.P. (“HPT”) requests authorization to operate a 9.2m fixed gateway earth station (the “ST-9.2m gateway”) at its facility in Kapolei, Hawaii in the 29.1-29.15 GHz band (Earth-to-space) to communicate with the EUTELSAT 172B satellite at the 172° E.L. orbital location recently authorized by the Commission.¹ Grant of this modification is critical to ensure that HPT can efficiently and effectively support pressing communications traffic requirements on the EUTELSAT 172B transponder that includes the 29.1-29.15 GHz gateway band.

I. DISCUSSION

HPT has a license to operate the ST-9.2m gateway in Ka-band frequencies at 18.4-19.2 GHz (space-to-Earth) and 27.5-29.1 GHz (Earth-to-space) to support EUTELSAT 172B service link operations.² In addition, HPT was granted an STA to facilitate the hand-off of customer traffic to EUTELSAT 172B.³ The E150010 license does not currently include authority to operate in the 29.1-29.15 GHz band, which precludes long-term use of the transponder containing these

¹ See ES 172 LLC, File No. SAT-RPL-20170927-00136, Call Sign S3021 (granted in part/ deferred in part Dec. 7, 2017) (authorizing operation of EUTELSAT 172B in certain C-band and Ku-band service link frequencies). To the extent necessary, HPT incorporates by reference the technical information relating to the band from the E172B application.

² See Hawaii Pacific Teleport L.P., File Nos. SES-MFS-20170721-00787 and SES-AFS-20171007-01112, Call Sign E150010 (the “*HPT Modification Application*”). HPT withdrew a request to operate in the 29.1-29.15 GHz band because discussions with Iridium regarding shared access to the band remained ongoing (see Section 1.65 Letter from Frank R. Jazzo to Marlene H. Dortch dated Nov. 15, 2017).

³ See Hawaii Pacific Teleport L.P., File No. SES-STA-20171104-01234, Call Sign E150010, File Nos. SES-STA-20171212-01331, granted with conditions, December 18, 2017, SES-STA-20180116-00032, extending STA to February 18, 2018, SES-STA-20180215-00126 extending STA to April 22, 2018, SES-STA-20180420-00383 extending STA to May 30, 2018, and SES-STA-20180529-00821 pending extension request).

frequencies. However, HPT has received an STA to support EUTELSAT 172B operations on an interim basis in this band.⁴ This modification application seeks to include authorization to operate in the 29.1-29.15 GHz band in the E150010 license based on modified operating parameters HPT has agreed to with Iridium.

Addition of the 29.1-29.15 GHz Band

The ST-9.2m gateway seeks to communicate with the EUTELSAT 172B satellite in the 29.1-29.15 GHz band, which is shared on a co-primary basis between terrestrial services and NGSO MSS feeder links.⁵ GSO FSS operations in this band are not contemplated by the Commission's rules and therefore waiver and authorization as a non-conforming use is necessary to enable ST-9.2m gateway uplink operations in the band.

HPT demonstrated in the HPT Modification Application that the EUTELSAT 172B satellite and ST-9.2m gateway comply with applicable Commission requirements for operating in Ka-band gateway frequencies or requested appropriate waivers of such requirements.⁶ HPT hereby incorporates by reference the satellite and earth station operational parameters and other

⁴ *Id.* at note 3.

⁵ See United States Table of Frequency Allocations, 47 C.F.R. §2.106; *In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 11 FCC Rcd. 19005, ¶¶ 57-58 and 78 (1996) (“*Ka-band Plan R&O*”). *In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, 15 FCC Rcd 13430, ¶ 28 and 34 (2000) (“*Redesignation of Ka-band Plan R&O*”).

⁶ See 47 C.F.R. § 25.137(d); *HPT Modification Application* at Section I.D. To the extent necessary, HPT incorporates by reference the waiver requests included in the *HPT Modification Application*.

relevant information set forth in the HPT Modification Application, including the Schedules B and S information previously provided for the 29.1-29.15 GHz band.

HPT and Eutelsat have had coordination discussions with Iridium regarding proposed access to the 29.1-29.15 GHz band. Based on these discussions, an understanding has been reached with Iridium for the power levels proposed in this application, which are lower than what had been proposed in the *HPT Modification Application* and what had been authorized for short-term STAs to satisfy urgent requirements.⁷

Waiver Request

A waiver of the Commission's rules is warranted when "good cause" is shown.⁸ In addition, a waiver may be granted if the grant "would not undermine the policy objective of the rule in question and would otherwise serve the public interest."⁹

As discussed below, there is good cause to grant a waiver of the U.S. Table of Frequency Allocations, 47 C.F.R. § 2.106, and the Commission's Ka-band plan to the extent necessary to permit HPT's operation in the 29.1-29.15 GHz band as a non-conforming use on an unprotected, non-interference basis. In considering requests for non-conforming uses, the Commission has indicated it would grant such waivers when there is little potential for interference into any service

⁷ The power levels also are lower than what Comsearch coordinated with terrestrial licenses. Any higher power included in the Comsearch Frequency Coordination Report included with this application are included to be conservative and out of an abundance of caution.

⁸ 47 C.F.R. § 1.3; *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

⁹ *See EchoStar KuX Corp. Application for Authority to Construct, Launch and Operate a Geostationary Satellite Using the Extended Ku-band Frequencies in the Fixed-Satellite Service at the 83° W.L. Orbital Location*, Order and Authorization, 20 FCC Rcd 919, ¶ 12 (2004) (Commission waiver for "good cause shown").

authorized under the Table of Allocations and when the non-conforming operator accepts any interference from authorized services.¹⁰

Public Interest Considerations

Grant of this application will serve the public interest by allowing HPT to provide additional services utilizing the EUTELSAT 172B satellite. The EUTELSAT 172B satellite enhances competition by adding satellite capacity at the 172° E.L. orbital location, thereby expanding the options available in the United States and internationally for high-speed broadband services, including broadband Internet, video transmissions, and maritime and aeronautical communications. Operation on these additional frequencies will enable HPT to expand its U.S. operations, including service to U.S. government and commercial users, thereby serving the public interest with no adverse impact on the FCC's rules and policies.

II. CONCLUSION

For all the foregoing reasons, HPT respectfully requests that the Commission grant this modification application to operate the ST-9.2m gateway earth station at the Kapolei, Hawaii, teleport facility in Ka-band frequencies from 29.1-29.15 GHz band with the EUTELSAT 172B satellite.

¹⁰ See Letter from Jose Albuquerque, Chief, Satellite Division and Mark Settle, Chief, Policy and Rules Division, to Suzanne Malloy, O3b Limited, DA 14-1369 (rel. September 22, 2014); *Contactmeo Communications, LLC*, Order and Authorization, 21 FCC Rcd 4035, 4044 (IB 2006); *ViaSat AMSS Order*, File No. SES-MFS-20090624-00789; see also 47 C.F.R. § 1.3.