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## BY ELECTRONIC FILING

Kathryn Medley  
Satellite Division, International Bureau  
Federal Communications Commission  
445 12th Street S.W.  
Washington, DC 20554

**Re: KVH Industries, Inc. Request for Special Temporary Authority To Operate Land Mobile Satellite Service Earth Stations**

Dear Ms. Medley:

On October 19, 2009, KVH Industries, Inc. (“KVH”) filed a request for Special Temporary Authority (“STA”) to operate up to 15 Land Mobile-Satellite Service (“LMSS”) earth stations in the 14.0-14.5 GHz and 11.7-12.2 GHz frequency bands pursuant to Section 25.120(b)(2) of the Commission’s Rules, 47 C.F.R. § 25.120(b)(2). Since that time, rules for Ku-band vehicle-mounted earth stations (“VMESs”) have become effective.<sup>1</sup> After clarification of certain issues by KVH, the STA request was placed on public notice on May 12, 2010 and will be ripe for final Commission action (after expiration of the 30-day public comment period) as early as next week.

KVH requested authority to operate the proposed LMSS network on a secondary basis rather than on a primary basis under the VMES rules. Although this regulatory status is correct for KVH’s proposed LMSS uplink/transmit operations in the 14.0-14.5 GHz band, the 11.7-12.2 GHz band does not contain an allocation for LMSS downlink/receive operations. Moreover, despite the similarity between VMES and LMSS operations, the allocation changes made in the *VMES Order* apply only to operations authorized under the VMES rules.

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<sup>1</sup> See *Amendment of Parts 2 and 25 of the Commission’s Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle-Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed-Satellite Service*, Report and Order, IB Docket No. 07-101, FCC 09-64 (rel. July 31, 2009) (“*VMES Order*”).

Accordingly, KVH respectfully requests a waiver of the Table of Frequency Allocations, Section 2.106, to permit the use of the 11.7-12.2 GHz band for its proposed LMSS receive operations. Waiver of this rule is appropriate for the reasons supporting grant of the underlying STA application. In addition, the Commission has found that a waiver to permit non-conforming uses is appropriate “when there is little potential for interference into any service authorized under the Table of Frequency Allocations and when the non-conforming operator accepts any interference from authorized services.”<sup>2</sup>

KVH proposed LMSS downlink/receive operations in the 11.7-12.2 GHz band can be authorized without causing interference to other authorized users of the Ku-band, including primary FSS users of this band. Moreover, KVH confirms that it will accept interference from any authorized user of the 11.7-12.2 GHz band. A waiver of Section 2.106 is therefore warranted.

KVH appreciates the opportunity to supplement its pending STA request with this clarification and waiver request, and looks forward to expeditious action on the STA request.

Respectfully submitted,

SQUIRE, SANDERS & DEMPSEY L.L.P.

/s/ Carlos Nalda

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Carlos M. Nalda

cc: Trang Nguyen

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<sup>2</sup> See, e.g., *In the Matter of Application of Fugro-Chance, Inc. For Blanket Authority to Construct and Operate a Private Network of Receive-Only Mobile Earth Stations*, Order and Authorization, 10 FCC Rcd 2860 at ¶ 2 (1995).