

Exhibit A

PETITION FOR WAIVER OF SECTIONS 25.137, 25.114, AND 2.106

I. Petition for Waiver of Sections 25.137 and 25.114

Pursuant to Section 25.137 of the Federal Communications Commission's ("Commission" or "FCC") rules, earth station applicants "requesting authority to operate with a non-U.S. licensed space station *to serve the United States*" must demonstrate that effective competitive opportunities exist and must provide the same technical information required by Section 25.114 for U.S.-licensed space stations.¹ PanAmSat Licensee Corp. ("PanAmSat") herein seeks authority to provide launch and early orbit phase ("LEOP") services -- not commercial services -- to a foreign satellite from an earth station located in the United States, and thus believes that Section 25.137 does not apply.

To the extent the Commission determines, however, that PanAmSat's request for authority to provide LEOP services on a special temporary basis is a request to serve the United States with a non U.S.-licensed satellite, PanAmSat respectfully requests a waiver of Sections 25.137 and 25.114 of the Commission's rules.² The Commission may grant a waiver for good cause shown.³ The Commission typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.⁴ In granting a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵ Waiver is therefore appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

In this case, good cause exists for a waiver of both Section 25.137 and Section 25.114. With respect to Section 25.114, PanAmSat seeks authority only to provide LEOP services for the KoreaSat 6 satellite. The information sought by Section 25.114 is not relevant to LEOP services. Moreover, PanAmSat does not have -- and would not easily be able to obtain -- such information because PanAmSat is not the operator of the KoreaSat 6 satellite, nor is PanAmSat in contractual privity with that operator. Rather, an affiliate of PanAmSat has a contract with Orbital Sciences Corp., the manufacturer of the KoreaSat 6 satellite, to conduct LEOP services for the satellite.

¹ 47 C.F.R. § 25.137 (emphasis added).

² 47 C.F.R. §§ 25.137 and 25.114.

³ 47 C.F.R. §1.3.

⁴ *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

The information that PanAmSat is not including is not required to determine potential harmful interference. The Schedule S information for this satellite would pertain to the operation of the KoreaSat 6 satellite at its final orbital location. However, the present application for LEOP services involves communications *prior* to the satellite attaining its final location in the geostationary orbit. In other words, during the LEOP mission, the earth station will not be communicating with a satellite located in the geostationary orbit. Rather, it will be transmitting to a satellite traveling on its “transfer orbit” or “LEOP path”, which starts immediately following its separation from a launch vehicle, and ends when the satellite reaches its geostationary orbital location. Moreover, as with any STA, PanAmSat will perform the LEOP services on a non-interference basis.

Because it is not relevant to the service for which PanAmSat seeks authorization, and because obtaining the information would be a hardship, PanAmSat seeks a waiver of all the information required by Section 25.114. PanAmSat has provided in this STA request the required technical information that is relevant to the LEOP services for which PanAmSat seeks authorization.

Good cause also exists to waive Section 25.137. Section 25.137 is designed to ensure that “U.S.-licensed satellite systems have effective competitive opportunities to provide analogous services” in other countries. Here, there is no service being provided by the satellite; it is simply being placed in its orbital location after separating from the launch vehicle. Thus, the purpose of the information required by Section 25.137 is not implicated here. For example, Section 25.137(d) requires earth station applicants requesting authority to operate with a non-U.S.-licensed space station that is not in orbit and operating to post a bond.⁶ The underlying purpose in having to post a bond—*i.e.*, to prevent warehousing of orbital locations by operators seeking to serve the United States—would not be served by requiring PanAmSat to post a bond in order to provide approximately ten days of LEOP services to the KoreaSat 6 satellite.

It is PanAmSat’s understanding that KoreaSat 6 is licensed by Korea, which is a WTO-member country. It is also PanAmSat’s understanding that at its permanent orbital location of 116.0° E.L., KoreaSat 6 will not serve the United States. Thus, the purposes of Section 25.137—to ensure that U.S. satellite operators enjoy “effective competitive opportunities” to serve foreign markets and to prevent warehousing of orbital locations serving the United States—will not be undermined by grant of this waiver request.

Finally, PanAmSat notes that it expects to operate with the KoreaSat 6 satellite using its U.S. earth station for a period of approximately ten days. Requiring PanAmSat to obtain copious technical and legal information from an unrelated party, where such information is not relevant for the purpose of determining the potential for harmful interference and the operations will cease after approximately ten days, would pose undue hardship without serving underlying policy objectives. Given these particular facts, the waiver sought herein is plainly appropriate.

⁶ See 47 C.F.R. §25.137(d)(4).

II. Petition for Waiver of Section 2.106

In order to conduct LEOP (space-to-Earth) operations in the 12251.5 MHz and 12748.5 MHz bands, this application for STA requests a waiver of the U.S. Table of Frequency Allocations, Section 2.106 of the Commission's rules.⁷ The 12220-12700 MHz band is allocated to fixed service and the broadcasting satellite service, and the 12700-12750 MHz band is allocated to the fixed service, the fixed satellite service (Earth-to-space) and the mobile service. Thus, PanAmSat seeks waiver to provide fixed satellite service (space-to-Earth) in the 12251.5 MHz and 12748.5 MHz frequencies. As shown below, good cause exists here to grant a waiver to allow PanAmSat to provide temporary LEOP services using these frequency bands.

Grant of the STA will serve the public interest because it will allow PanAmSat to help launch the KoreaSat 6 satellite to the 116.0° E.L. location. This, in turn, will help provide Ku-band capacity to Korea from that location.

Waiver is also appropriate in this case on hardship grounds due to the fact that PanAmSat is unable to change the frequencies designated for TT&C on the Koreasat 6 satellite. The KoreaSat 6 satellite is a satellite constructed by a non-U.S. operator for operations outside the United States. The frequency allocation table in the region where the Koreasat 6 satellite will operate designates the 12200-12275 MHz band for FSS (space-to-Earth) use. As such, Koreasat 6's TT&C downlink frequencies are in this frequency range. Requiring PanAmSat to comply with the U.S. Table of Frequency Allocations when it cannot change the TT&C frequencies on a satellite constructed for operation in a region not covered by the U.S. allocation would pose an undue hardship.

Furthermore, grant of this waiver will not cause harmful interference. As with any STA, PanAmSat will perform the LEOP services in the 12251.5 MHz and 12748.5 MHz bands on a non-harmful interference basis. In addition, Orbital Sciences Corp. will coordinate with co-frequency satellite operators in the LEOP path, including direct broadcast satellite ("DBS") providers such as EchoStar and DIRECTV, as well as FSS (Earth-to-space) users to ensure that co-frequency operation will not cause interference to the services of these operators. Finally, the coordination analyses provided by Comsearch indicates that the services of terrestrial users operating in the 12250-12750 MHz band will not be impacted. Accordingly, grant would be consistent with Commission precedent permitting non-conforming spectrum uses "when there is little potential

⁷ 47 C.F.R. § 2.106. The 14000-14500 MHz band is allocated for fixed-satellite (Earth-to-space) operations; thus, waiver is not required for the uplink TT&C frequencies to be used in the KoreaSat 6 LEOP mission.

interference into any service authorized under the Table of Frequency Allocations and when the non-conforming operator accepts any interference from authorized services.”⁸

⁸ See *L-3 Communications Titan Corporation, Application for Authority to Operate a Mobile Earth Station to Provide Land Mobile Satellite Service in the Ku-Band*, Memorandum Opinion Order and Authorization, 24 FCC Rcd 3047, ¶ 9 (Int'l Bur. 2009) citing *Fugro-Chance, Inc.*, Order and Authorization, 10 FCC Rcd 2860 (Int'l Bur. 1995)