

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Application of Hawaii Pacific Teleport L.P.)	Call Sign E150010
for 30-Day Special Temporary Authorization)	
("STA") to Communicate with EUTELSAT)	File No. _____
172B in the 29.1-29.15 GHz Band)	

Expedited Action Requested

APPLICATION FOR SPECIAL TEMPORARY AUTHORIZATION

Hawaii Pacific Teleport L.P. ("HPT") pursuant to Section 25.120 of the Commission's rules, 47 C.F.R. § 25.120, respectfully requests 30-day special temporary authorization ("STA") commencing December 15, 2017 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 STA, which may be renewed for an additional 30 days, is critical to ensure that HPT can efficiently and effectively support pressing communications traffic requirements during that period on the EUTELSAT 172B transponder that includes the 29.1-29.15 GHz gateway band.

Given the urgency of the matter and non-objection to the proposed interim operations by Iridium, HPT seeks expedited processing to facilitate Commission consideration and action on the STA at the earliest practicable time.

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).

I. DISCUSSION

HPT has a pending application with the Commission to modify an existing 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 a short-term STA to facilitate the hand-off of customer traffic to EUTELSAT 172B.³ Neither the *HPT Modification Application* nor existing STA include authority to operate in the 29.1-29.15 GHz band, which precludes use of the transponder containing these frequencies and necessitated this STA request to satisfy an immediate and pressing short-term service need.

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.⁴ HPT hereby incorporates by reference the satellite and earth station operational parameters and other relevant information set forth in the *HPT Modification Application*, including the Schedule B information previously provided for the 29.1-29.15 GHz band. In this STA request, HPT seeks authority for interim gateway uplink operations on an unprotected, non-harmful interference basis to satisfy an urgent, short-term service requirement.

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 (and still remain) 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 (expires on Jan. 17, 2018).

⁴ 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*.

A. 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 and Eutelsat continue to pursue coordination discussions with Iridium regarding proposed access to the 29.1-29.15 GHz band. Although a final coordination has not yet been achieved, Iridium has confirmed that it does not object to the short-term operations proposed herein. HPT and Eutelsat expressly acknowledge that Iridium's current non-objection should not be construed as acceptance of longer-term gateway operations in the band or to affect in any way Iridium's position in, or the outcome of, ongoing coordination discussions.

Nonetheless, this STA (along with a potential 30-day renewal) will enable HPT to satisfy an urgent short-term service requirement. HPT acknowledges and accepts that any grant of operating authority in this band will be on a strictly unprotected, non-interference basis only as a non-conforming use. HPT further acknowledges that grant of this authorization is without prejudice to any determination that the Commission may make regarding any future application for use of the 29.1-29.15 GHz band HPT's gateway earth station license. Any action taken or

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*”).

expense incurred for operations pursuant to the requested STA is solely at HPT's risk. Finally, HPT certifies that it will comply with any future coordination agreement with Iridium with respect to access to the band.

B. Waiver Request

A waiver of the Commission's rules is warranted when "good cause" is shown.⁶ 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."⁷

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 short-term, non-conforming 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 authorized under the Table of Allocations and when the non-conforming operator accepts any interference from authorized services.⁸

HPT has cleared its proposed short-term operations with Iridium. Nonetheless, in the unlikely event that HPT gateway operations do cause harmful interference to the Iridium system, HPT will immediately suspend operations until such interference is resolved.

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

⁷ *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").

⁸ *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.

C. Expedited Processing

HPT respectfully requests this 30-day STA pursuant to Section 25.120 of the Commission's rules, 47 C.F.R. § 25.120. Section 25.120(a) provides that STA requests should be filed at least three working days prior to the date of commencement of the proposed operations, and Section 25.120(b) provides that the Commission may grant a 30-day STA without placing it on public notice. Because HPT has confirmed that Iridium does not object to temporary operation of the ST-9.2m gateway in the 29.1-29.15 GHz band with the EUTELSAT 172B satellite, expedited processing of this request is appropriate.

D. Other Public Interest Considerations

Grant of this STA request is in the public interest because it will directly facilitate the ability of HPT to satisfy an urgent, short-term requirement for customer traffic on the EUTELSAT 172B transponder linked to the 29.1-29.15 GHz band.

II. CONCLUSION

In view of the foregoing, the public interest would be served by a grant of a 30-day STA commencing on December 15, 2017 to permit HPT to operate the ST-9.2m gateway in the 29.1-29.15 GHz band on a non-harmful interference basis to support an urgent, short-term requirement for EUTELSAT 172B service.