

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

In the Matter of

RBC Signals LLC Petition for Waiver of) Call Sign: N/A
Sections 25.114 and 25.137 of the)
Commission’s Rules, 47 C.F.R.) File No.: SES-STA-20201201-01285
§§ 25.114 & 25.137)

Supplemental Petition for Waiver of 47 C.F.R. §§ 25.114 & 25.137

In connection with above-captioned request for 30-day special temporary authorization (“STA”) to operate certain ground station facilities at an existing site in Deadhorse, Alaska to support two foreign-licensed, non-geostationary orbit (“NGSO”) satellites – the SWIFT cubesat and the SteamSat cubesat – in the 401-402 MHz band (Earth-to-space/space-to-Earth) and the 2261.5-2269.5 MHz band (space-to-Earth),¹ RBC Signals files this supplemental petition for waiver of Sections 25.114 and 25.137 of the Federal Communications Commission’s (“Commission” or “FCC”) rules.²

RBC Signals understands that its TT&C operations in the 401-402 MHz band do not constitute market access to the United States for the subject satellites.³ In the 2261.5-2269.5

¹ See RBC Signals LLC, File No. SES-STA-20201201-01285 (“30-Day STA”). RBC Signals will operate in the 2261.5-2269.5 MHz band to support the SWIFT cubesat only.

² 47 C.F.R. §§ 25.137 and 25.114.

³ See 47 C.F.R. §§ 25.114 and 25.137. See also SES Americom, Inc., File No. SES-MFS-20160624-00607, Call Sign E050287 (granting authority for an earth station to provide TT&C services to the foreign-licensed ASTRA 3A operating at 86.85° W.L.); Hawaii Pacific Teleport, L.P., File No. SES-MFS-20131030-00913, Call Sign E030115 (granting authority for an earth station to provide TT&C services to ASTRA 3A operating at 176.85° W.L.); SES Americom, Inc., File No. SES-STA-20161110-00884, Call Sign E050287 (granting authority for an earth station to provide TT&C services to ASTRA 3A during drift from 86.85° W.L. to 47.0° W.L.); Hawaii Pacific Teleport, L.P., File No. SES-STA-20131030-00914, Call Sign E030115 (granting authority for an earth station to provide TT&C services to ASTRA 3A operating at 176.85° W.L.).

MHz band, however, the Poland-licensed SW1FT satellite transmit non-telemetry and tracking data to the ground station as it passes over the Deadhorse location (2-3 times per day and such transmissions will otherwise be muted along the flight path).

Although the SW1FT satellite will not perform any U.S.-observation activities over the United States or its territories, and out of an abundance of caution, RBC Signals provided technical showings under Section 25.114 of the Commission's rules in the event of a Commission determination that these limited, temporary operations constitute a request for market access.⁴ Moreover, the SW1FT satellite is licensed and registered by Poland, a WTO-member country and thus there is a presumption in favor of entry for this satellite.⁵

Based on Commission language in its recent *Application Fee NPRM*, RBC Signals understands that STAs are not available for foreign-licensed satellites seeking to serve the U.S. market but that earth stations operators can still request an STA to communicate with foreign satellites.⁶ However, to the extent the Commission determines with respect to the SW1FT satellite either that RBC Signals' earth station STA (i) constitutes a satellite operator request for market access because it includes limited data downlink/earth station receive authority in addition to TT&C (although no such limitation is noted in the *Application Fee NPRM*); and (ii) contains insufficient information for grant of U.S. market access, RBC Signals respectfully

⁴ See *30-Day STA*, Technical Appendix.

⁵ See 47 C.F.R. § 25.137(a)(2).

⁶ See, e.g., Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules, Notice of Proposed Rulemaking, MD Docket No. 20-270 (re. Aug., 26, 2020) at n.174 ("Because grants of U.S. market access are not authorizations and non-U.S. licensed space stations are not licensed by the FCC, an STA is not available for space stations operations involved with access to the U.S. markets. Accordingly, no filing fees are being proposed for STAs involving grants of market access. *Earth station licensees, however, have and may continue to request an STA to communicate with non-U.S. licensed space stations, and filing fees for such requests are covered by the proposed filing fee for Earth Stations, Special Temporary Authority, above.*") ("*Application Fee NPRM*") (emphasis added).

requests a waiver of Sections 25.114 and 25.137 of the Commission's rules.

The Commission may grant a waiver for good cause shown.⁷ The Commission typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest, but that earth station operators may still request an STA to communicate with a foreign-licensed satellite.⁸ 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.⁹ 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 Section 25.114 and Section 25.137, to the extent required. RBC Signals effectively provided detailed technical information under Section 25.114 to provide the Commission extensive insight in the SWIFT satellite's downlink operations and limited potential for interference. In addition, the SWIFT satellite will not perform any U.S.-observation activities over the United States or its territories and will only transmit 2-3 times per day as it passes over the earth station. At all other times, satellite will be muted and not transmit or receive any data. Moreover, the SWIFT satellite is licensed by Poland, which is a WTO-member country.

Thus, the purposes of Section 25.137 – to provide the Commission with sufficient technical information to establish foreign-satellite compliance with its rules, 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

⁷ 47 C.F.R. §1.3.

⁸ *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

grant of this waiver request. Furthermore, the limited data downlink operations at issue will have a *de minimis* interference potential. Finally, in this case, the operator of the SWIFT satellite does not seek to serve the U.S. market or test its imaging technology over United States territory. Rather, RBC Signals seeks to provide limited downlink data support to the SWIFT satellite operator similar to TT&C services that the Commission has routinely permitted via temporary authority.

Thus, given these particular facts, a waiver is appropriate in this context and RBC Signals respectfully requests the Commission grant this petition and the associated STA request at the earlier practicable time.