

Before the
Federal Communications Commission
Washington, D.C. 20554

Loral CyberStar, Inc.)
)
Applications for Authority to Construct,) File Nos. 205/206-SAT-AMEND-95
Launch, and Operate a Ka-band Satellite)
System in the Fixed-Satellite Service) IBFS File Nos. SAT-AMD-19950929-
00157/158

ORDER AND AUTHORIZATION

Adopted: December 19, 2000

Released: December 20, 2000

By the Chief, International Bureau:

I. INTRODUCTION

1. With this *Order and Authorization*, we authorize Loral CyberStar, Inc. (“Loral”) to launch and operate two satellites in the geostationary-satellite orbit (“GSO”) to provide fixed-satellite service (“FSS”) in the Ka-band.¹ Specifically, Loral is authorized to launch and operate Orion F11 at the 67° W.L. orbit location, and to launch and operate Orion F12 at the 126.5° E.L. orbit location. These satellites will be part of Loral’s global system, allowing Loral to provide a variety of communications services to consumers in the United States and around the world.

II. BACKGROUND

2. In July 1996, the Commission adopted a band arrangement for U.S. commercial operations in the Ka-band.² This band arrangement designates discrete band segments in the 17.7-20.2 GHz (the “18 GHz band”) and 27.5-30.0 GHz (the “28 GHz band”) frequency bands for several services, including the GSO FSS service, the non-geostationary-satellite orbit (“NGSO”) FSS service, Local Multipoint Distribution Service, and feeder links for certain NGSO mobile satellite systems (“MSS”). Recently, the

¹ The Ka-band refers to the Earth-to-space (uplink) frequencies at 27.5-30.0 GHz and the corresponding space-to-Earth (downlink) frequencies at 17.7-20.2 GHz. We authorize Loral to operate in a portion of these frequencies as indicated herein.

² See *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*, CC Docket No. 92-297, First Report and Order and Fourth Notice of Proposed Rulemaking, 11 FCC Rcd 19005 (1996) (“*Ka-band First Report and Order*”).

Commission modified the rules for the deployment of services in the 18 GHz band.³ As revised, the Ka-band arrangement designates the following frequencies for U.S. commercial GSO FSS systems:

GSO FSS-Designated Band Segment	Other Co-Primary Designations ⁴
18.3-18.58 GHz (downlink)	Fixed Services
18.58-18.8 GHz (downlink)	
19.7-20.2 GHz (downlink)	
28.35-28.6 GHz (uplink)	
29.25-29.5 GHz (uplink)	NGSO MSS feeder links
29.5-30.0 GHz (uplink)	

3. The applications at issue were originally filed separately by Loral's predecessors in interest, Orion Network Systems, Inc. ("Orion Network") and its wholly owned subsidiary, Orion Asia Pacific Corporation ("Orion Asia").⁵ These applications were filed by the cut-off date established for consideration in the first processing group of Ka-band applications.⁶ Orion Network's application requested authorization to add a Ka-band payload to a pending Ku-band application, and to operate this hybrid satellite at the 127° W.L. orbit location.⁷ Similarly, Orion Asia asked for authority to add Ka-band capacity to a pending Ku-band application, and to operate this hybrid satellite at the 126° E.L. orbit location. During the pendency of these applications, discrepancies arose between the requested Ku-band orbit locations and the requested Ka-band orbit locations. As a result, the International Bureau ("Bureau") deferred action on these applications until Orion Network and Orion Asia resolved the discrepancies.⁸ Both

³ See *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*, IB Docket No. 98-172, Report and Order, 15 FCC Rcd 13430 (2000) ("18 GHz Report and Order"), petition for review pending, *Teledesic LLC v. FCC*, D.C. Cir. No. 00-1466 (filed November 6, 2000).

⁴ The services designated as co-primary share the band on an equal basis with GSO FSS systems. The U.S. Table of Frequency Allocations, 47 C.F.R. § 2.106, also contains allocations for other services in several of these bands.

⁵ Application of Orion Network Systems, Inc., File Nos. 205-SAT-AMEND-95, SAT-AMD-19950929-00157 (filed September 29, 1995); Application of Orion Asia Pacific Corporation, File No. 206-SAT-AMEND-95, SAT-AMD-19950929-00158 (filed September 29, 1995).

⁶ See *Public Notice*, Report No. SPB-29, 10 FCC Rcd 13753 (Int'l Bur. 1995). Several other first-round applicants proposing GSO satellite systems filed petitions to deny and other pleadings in response to Orion Network's and Orion Asia's initial applications. As a result of a subsequent agreement among the GSO applicants, these filings were withdrawn. Motorola Satellite Communications, Inc. also filed a petition to deny all of the GSO FSS Ka-band applications arguing that authorizing these proposals would conflict with its requested frequencies for feeder links for its Big LEO system. These concerns were resolved by the 28 GHz band arrangement, *supra* footnote 2.

⁷ The "Ku-band" refers to the Earth-to-space (uplink) frequencies at 14.0-14.5 GHz and the corresponding space-to-Earth (downlink) frequencies at 11.7-12.2 GHz.

⁸ See *Assignment of Orbital Locations to Space Stations in the Ka-Band*, Order, 13 FCC Rcd 1030, 1030 n.2 (Int'l Bur. 1997) ("May 1997 Assignment Order") (deferring action on Orion Asia's application); *Orion Network Systems, Inc.*, Order and Authorization, 12 FCC Rcd 23027, 23028 n.2 (Int'l Bur. 1997) (deferring action

Orion Network and Orion Asia subsequently notified the Bureau that they intended to construct, launch and operate stand-alone Ka-band satellites, rather than the hybrid satellites proposed. Orion Network sought to operate Ka-band satellite Orion F11 at the 127° W.L. orbit location,⁹ and Orion Asia sought to operate Ka-band satellite Orion F12 at the 126.5° E.L. orbit location.¹⁰

4. In May 1997, the Bureau adopted an orbital assignment plan implementing an agreement among the Ka-band GSO FSS applicants that successfully resolved their conflicts over worldwide satellite orbit locations.¹¹ The *May 1997 Assignment Order* listed Orion Asia at the 126.5° E.L. orbit location and reserved the 127° W.L. orbit location for Orion Network.¹² The *May 1997 Assignment Order* also provided that any licensees could present alternative arrangements provided that any affected parties agreed.¹³ Several licensees, including Orion Network, requested new locations, and reached an agreement among themselves with respect to this reassignment.¹⁴ As a result, the Bureau issued a revised orbital assignment plan, reserving the 67° W.L. orbit location for Orion Network.¹⁵

on Orion Network's application). At the same time, the Bureau granted seven first round Ka-band authorizations to various Loral predecessors in interest. *See id.* (authorizing Orion Network to operate Ka-band satellites at the 89° W.L., 81° W.L. and 78° E.L. orbit locations); *Orion Atlantic, L.P.*, Order and Authorization, 13 FCC Rcd 1416 (Int'l Bur. 1997) (authorizing Orion Atlantic to add Ka-band capacity to its Ku-band satellite at 47° W.L.); *Loral Space & Communications Ltd.*, Order and Authorization, 13 FCC Rcd 1379 (Int'l Bur. 1997) (authorizing Loral Space & Communications Ltd. ("Loral Ltd.") to operate Ka-band satellites at the 115° W.L., 28° E.L., and 105.5° E.L. orbit locations). Loral Ltd.'s satellite at 28° E.L. was later reassigned to 93° W.L. in a revised orbital assignment plan. *See Assignment of Orbital Locations to Space Stations in the Ka-Band*, Order, 12 FCC Rcd 22004 (Int'l Bur. 1997) ("*December 1997 Reassignment Order*").

⁹ Additional Information for Separate Ka-band Satellite System of Orion Network Systems, Inc., File Nos. 205-SAT-AMEND-95, SAT-AMD-19950929-00157 (June 4, 1997) ("Orion Network Additional Information"); Letter from Julian L. Shepard, Counsel for Orion Network Systems, Inc. to William F. Caton, Acting Secretary, FCC, File Nos. 205-SAT-AMEND-95, SAT-AMD-19950929-00157 (May 9, 1997).

¹⁰ Additional Information for Separate Ka-band Satellite System of Orion Asia Pacific Corporation, File Nos. 206-SAT-AMEND-95, SAT-AMD-19950929-00158 (June 4, 1997) ("Orion Asia Additional Information"); Letter from Julian L. Shepard, Counsel for Orion Asia Pacific Corporation to William F. Caton, Acting Secretary, FCC, File Nos. 206-SAT-AMEND-95, SAT-AMD-19950929-00158 (May 9, 1997). Orion F12's move from 126° E.L. to 126.5° E.L. comports with the Bureau's initial assignment of orbit locations to Ka-band GSO FSS applicants in the first processing round seeking satellites in the 62° W.L. to 175.25° E.L. region of the orbital arc. *See Assignment of Orbital Locations to Space Stations in the Ka-Band*, Order, 11 FCC Rcd 13737, 13741 (Int'l Bur. 1996).

¹¹ *See May 1997 Assignment Order*, 13 FCC Rcd 1030.

¹² *Id.* at 1032-33 (Appendix A).

¹³ *Id.* at 1031 ¶ 6.

¹⁴ Letter from Philip L. Verveer (Counsel for Loral Space & Communications Ltd.), Thomas J. Keller (Counsel for Orion Network Systems, Inc.), John P. Janka (Counsel for Hughes Communications Galaxy, Inc.), and Joseph Godles (Counsel for PanAmSat Licensee Corp.) to Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, FCC (October 23, 1997).

¹⁵ *December 1997 Reassignment Order*, 12 FCC Rcd 22004.

5. In February 1998, the Bureau authorized Orion Network and Orion Asia to transfer control of their authorizations and applications to Loral Space & Communications Ltd. (“Loral Ltd.”).¹⁶ Initially, Loral Ltd. structured the transaction so that the authorizations and applications were separately held by its subsidiaries. Thereafter, as the result of an internal restructuring process, Loral Ltd. requested and was granted authority for a *pro forma* assignment of these authorizations and applications, including the instant applications, to Loral CyberStar, Inc.¹⁷

6. Loral proposes to operate its Orion F11 and Orion F12 satellites in the 28.35-28.6 GHz and 29.25-30.0 GHz bands for uplink transmissions, and the 18.55-18.8 GHz, 19.45-19.7 GHz and 19.7-20.20 GHz bands for downlink transmissions. Loral proposes to offer a variety of digital services on a non-common carrier basis, including video for teleconferencing and entertainment, and computer data networks. Each satellite will have 32 active transponders, each having a usable bandwidth of 114 megahertz. The satellites will support primarily high speed digital transmissions using 25 fixed and two steerable spot beams. Loral states that both satellites will be an integral part of its global satellite network, with Orion F11 providing transcontinental services and intra-regional services in the United States, and Orion F12 providing high speed digital transmissions and intra-regional services throughout the Asia Pacific region.¹⁸

III. DISCUSSION

A. Qualifications

7. The Commission’s goal is to license satellites in a manner that promotes open entry, competition, maximum flexibility, technical innovation, and seamless networks. When possible, we seek to afford all applicants an opportunity to compete in the marketplace. Before the Commission authorizes any

¹⁶ *Loral Space & Communication Ltd. and Orion Network Systems, Inc., et al.*, Order and Authorization, 13 FCC Rcd 4592 (Int’l Bur. 1998) (“*Loral/Orion Merger Order*”). Section 25.116(c) of the Commission’s rules provides generally that if a major amendment to a processing round application, such as a transfer of control, is submitted after a cut-off date, the application will be considered to be newly filed, and will lose its status in the processing group. 47 C.F.R. § 25.116(c). In granting the merger of Loral Ltd. and Orion Network, the Bureau exempted the parties’ respective satellite applications pending in space station processing groups from Section 25.116(c), in part because the pending applications were part of the larger transaction involving satellites already licensed. *Loral/Orion Merger Order*, 13 FCC Rcd at 4598-99 ¶¶ 14-19.

¹⁷ See Letters from Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, FCC to Jennifer D. McCarthy, Counsel for Loral Orion Services, Inc. (December 22, 1999) (File Nos. SAT-T/C-19991124-00113, SAT-ASG-19991124-00114) (granting consolidation of companies into Loral Orion Services, Inc.) and Letter from Jennifer D. McCarthy, Counsel for Loral CyberStar, Inc. to Magalie Roman Salas, Secretary FCC (January 4, 2000) (confirming consummation of the transaction and notifying the Commission that Loral Orion Services, Inc. has assumed the name Loral CyberStar, Inc.).

¹⁸ In 1996, the Commission abolished all distinctions between U.S. domestic satellites and international separate system satellites. See *Amendment to the Commission’s Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems*, IB Docket No. 95-41, Report and Order, 11 FCC Rcd 2429 (1996) (“*DISCO I Report and Order*”). This allows all U.S. licensed satellites to provide any mix of domestic or international satellite services they choose, subject to the licensee obtaining applicable international approvals and authorizations by other administrations to provide service to, from, or within their respective territories. Therefore, all FSS licensees in the Ka-Band are permitted to provide any combination of domestic and international services without obtaining separate approval from the Commission for specific service areas.

space station applicant, however, we first determine whether an applicant is legally, technically and financially qualified to hold a Commission license.

8. *Financial Qualifications.* Historically, the Commission has fashioned financial requirements for satellite services on the basis of entry opportunities in the particular service being licensed.¹⁹ Under Commission precedent, the purpose of financial qualification rules is to prevent warehousing and ensure quick deployment of service where there may be more applicants than available licenses.²⁰ In cases where we can accommodate all pending applications and future entry is possible, however, we have not looked to financial ability as a prerequisite to a license grant.²¹ Because all of the first round applicants agreed to orbit locations, and other orbit locations remain available for GSO FSS satellites, the Commission waived the FSS financial requirements for Ka-band first round applicants.²² To ensure licensees do not hold valuable orbit and spectrum resources, we intend to enforce the milestone schedule strictly.

9. *Technical Qualifications.* Applicants for space station authorizations also must meet certain technical qualification requirements. After review of Loral's applications, we find that, based on the proposed system designs, Loral can will operate under the Commission's technical rules for FSS licensees in Part 25. We condition Loral's authorization on complying with our rules concerning technical qualifications for the FSS in the Ka-bands.

B. Spectrum Issues

10. *Service Uplinks.* The 28 GHz band arrangement designates 1000 MHz of spectrum in the 28.35-28.6 GHz band and the 29.25-30.0 GHz band for GSO FSS uplink operations. Two-hundred fifty megahertz of this spectrum at 29.25-29.5 GHz is to be shared on a co-primary basis with NGSO MSS feeder links. In its applications, Loral proposes to use spectrum at the 28.35-28.6 GHz and 29.25-30.0 GHz bands for its service uplinks to each of its orbit locations. We grant Loral's proposal, as it is consistent with the band arrangement. Operations in the shared 250 megahertz at 29.25-29.5 GHz are, of course, subject to the sharing rules adopted in the *Ka-Band First Report and Order*.²³

11. *Service Downlinks.* The revised 18 GHz band arrangement designates 1000 MHz of spectrum in the 18.3-18.8 GHz band and the 19.7-20.2 GHz band for GSO FSS downlink operations. Two-hundred eighty megahertz of this spectrum at 18.3-18.58 GHz is to be shared on a co-primary basis with the fixed services. In adopting this band arrangement, the Commission stated that the total 720 megahertz of unshared downlink spectrum at 18.58-18.8 GHz and 19.7-20.2 GHz, plus the flexible rules

¹⁹ See, e.g., 47 C.F.R. §§ 25.140(c), 25.142(a)(4).

²⁰ See, e.g., *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands*, CC Docket No. 92-166, Report and Order, 9 FCC Rcd 5936, 5948-50 ¶¶ 26-30 (1994), *on recon.*, Memorandum Opinion and Order, 11 FCC Rcd 12861 (1996).

²¹ *Id.* at 5948 ¶ 26.

²² See *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*, CC Docket No. 92-297, Third Report and Order, 12 FCC Rcd 22310, 22317-18 ¶¶ 16-18 (1997) ("*Ka-band Third Report and Order*").

²³ See *Ka-band First Report and Order*, 11 FCC Rcd at 19034-35 ¶¶ 72-74. See also 47 C.F.R. § 25.258.

that permit sharing of 280 megahertz at 18.3-18.58 GHz, will enable each system to have ample spectrum and allow multiple systems to operate. As mentioned in the *18 GHz Report and Order*, the Commission recognizes that some GSO FSS systems have already been designed, and that we expect that current system designs of the GSO FSS can proceed with some modification, or that sharing agreements can be reached to permit the use of these designs.²⁴

12. In its applications, Loral requests 1000 megahertz of spectrum in the 18.55-18.8 GHz, 19.45-19.7 GHz and 19.7-20.2 GHz bands for downlink transmissions from each of its assigned orbit locations. We grant that portion of its request that is consistent with the 18 GHz band arrangement. Consequently, we authorize Loral to operate its satellites with service downlinks in the 18.55-18.8 GHz and 19.7-20.2 GHz bands. We cannot give Loral operating authority in its other proposed downlink band, 19.45-19.7 GHz, as that request is inconsistent with the 18 GHz band arrangement. On our own motion, however, we are in a position to grant Loral's original request for a full 1000 megahertz of downlink spectrum by authorizing Loral to operate in the 18.3-18.55 GHz band, which is available for GSO FSS downlink operations, shared on a co-primary basis with the fixed services. Operations in the shared 280 megahertz at 18.3-18.58 GHz are, of course, subject to the sharing rules adopted in the *18 GHz Report and Order*.²⁵ In addition, Loral must coordinate with the U.S. Government systems operating in the 17.7-18.8 GHz and 19.7-20.2 GHz bands in accordance with footnote US 334 to the Table of Frequency Allocations.²⁶

C. Regulatory Treatment

13. In the *DISCO I Report and Order*, the Commission determined that all fixed-satellite operators in the C-band and Ku-band could elect to operate on a common carrier or non-common carrier basis.²⁷ In the *Ka-band Third Report and Order*, the Commission stated there was no reason to treat satellite operators in the Ka-band any differently.²⁸ Loral proposes to operate its proposed FSS services on a non-common carrier basis.²⁹ The Commission traditionally has evaluated requests to operate on a non-common carrier basis using the analysis set forth in *National Association of Regulatory Utility Commissioners v. FCC* ("*NARUC I*").³⁰ Under *NARUC I*, we may regulate an entity as a non-common carrier unless: (1) there is or should be any legal compulsion to serve the public indifferently; or (2) there are reasons implicit in the nature of the service to expect that the entity will in fact hold itself out indifferently to the eligible user public.³¹ Dozens of FSS satellites are now operating in the C- and Ku-band, and at least nine FSS operators other than Loral and its subsidiaries are authorized in the Ka-band.

²⁴ *18 GHz Report and Order*, 15 FCC Rcd at 13444 ¶ 30.

²⁵ *Id.* at 13446-54 ¶¶ 34-49.

²⁶ 47 C.F.R. § 2.106 US 334.

²⁷ *See DISCO I Report and Order*, 11 FCC Rcd at 2436 ¶¶ 45-50.

²⁸ *See Ka-band Third Report and Order*, 12 FCC Rcd at 22333 ¶ 58-60.

²⁹ "The non-common carrier transactions will consist, typically, of private sales of transponder capacity and related satellite communications services." Orion Network Additional Information at 5 & Orion Asia Additional Information at 5.

³⁰ 525 F.2d 630 (D.C. Cir.), *cert. denied*, 425 U.S. 992 (1976).

³¹ *Id.* at 642.

Thus, with respect to the first prong of *NARUC I*, sufficient competitive capacity is, and will continue to be, available to assure the U.S. public access to FSS without compelling Loral to serve the public indifferently. With regard to the second prong of *NARUC I*, based on Loral's proposed services, we see no reasons why Loral would hold itself out indifferently to the public. We will therefore allow Loral to operate as a non-common carrier.

D. Implementation Milestones

14. As in all other satellite services, Ka-band licensees are required to adhere to a strict timetable for system implementation. Requiring licensees to adhere to implementation deadlines prevents the valuable orbit-spectrum resource from being held indefinitely by licensees who are unable or unwilling to proceed with their plans. Specifically, Section 25.145(f) of the Commission's rules requires Ka-band GSO FSS licensees "[1] to begin construction of its first satellite within one year of grant, [2] to begin construction of the remainder within two years of grant, [3] to launch at least one satellite into each of its assigned orbit locations within five years of grant, and [4] to launch the remainder of its satellites by the date required by the International Telecommunication Union [ITU] to assure international recognition and protection of those satellites."³² Failure to meet any of these construction milestones will render those satellite authorizations null and void.

15. We are now in a position to impose system implementation milestones as a condition of Loral's licenses at the 67° W.L. and 126.5° E.L. orbit locations. The dates by which Loral's satellites must be "brought into use" to protect the date priority of the U.S. ITU filings for its orbital locations are in June and July 2005.³³ We recognize that, in this case, applying these ITU "bringing into use" dates to the last implementation milestone has the incongruous result of our rules requiring Loral to launch its satellites into each of its assigned orbit locations by December 2005, *i.e.*, after the date Loral is required to bring its satellite locations into use to protect the date priority of the U.S. ITU filings for its orbital locations. To address this misalignment, we require Loral to launch its satellites into each licensed orbit location which "brings into use" all of the frequency assignments it plans to operate at that orbit location by the appropriate June and July 2005 ITU "bringing into use" date. This will protect the United States' and thus, Loral's ability to coordinate and gain international recognition for the satellites at each of its assigned orbit locations. Moreover, we do not anticipate that meeting this milestone will be difficult, as the difference between the ITU "bringing into use" date and December 2005 is *de minimis*.

E. International Coordination

16. In general, we follow the applicable advance-publication, coordination, and notification procedures set forth in the ITU Radio Regulations in coordinating Loral's satellites with other affected

³² 47 C.F.R. § 25.145(f). *See also Ka-band Third Report and Order*, 12 FCC Rcd at 22334-35 ¶ 61 & n.77.

³³ The exact date is nine years after the date of ITU publication of the Advanced Publication Information for each orbit location. *See* ITU Radio Regulations S11.44, as modified by Final Acts of the 2000 World Radiocommunication Conference, Istanbul (2000). Thus, the ITU Radio Regulations require that the satellite at 67° W.L. be brought into use by June 25, 2005, and the satellite at 126.5° E.L. be brought into use by July 23, 2005.

administrations. Additional information concerning coordination between U.S. licensed satellite systems and non-U.S. licensed systems is set forth in the *Ka-band Third Report and Order*.³⁴

F. Exclusionary Arrangements

17. Exclusionary arrangements can take the form of concessions, contracts, understandings, or working arrangements that offer a particular satellite system as the only permissible facility through which to obtain a particular satellite service between the United States and another country. Prohibiting these type of arrangements facilitates competition by encouraging the use of multiple satellite systems in other countries, and ensures that all parties have an opportunity to provide truly global service, which also facilitates competition in the U.S. market.³⁵ Congress recently enacted a statutory bar to exclusionary arrangements.³⁶ Loral must comply with these restrictions.

IV. CONCLUSION

18. Accordingly, upon review of Loral's applications to implement Ka-band GSO satellites to provide FSS, we find that Loral is qualified to be a Commission licensee and that, pursuant to Section 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 309, grant of these applications will serve the public interest. We have assigned Loral to the 67° W.L. orbit location for Orion F11 and the 126.5° E.L. orbit location for Orion F12.

V. ORDERING CLAUSES

19. IT IS ORDERED that Application File Nos. 205/206-SAT-AMEND-95, IBFS File Nos. SAT-AMD-19950929-00157/158 ARE GRANTED and Loral CyberStar, Inc. IS AUTHORIZED to launch and operate one satellite at the 67° W.L. orbit location and one satellite at the 126.5° E.L. orbit location.

20. IT IS FURTHER ORDERED that Loral CyberStar, Inc. IS AUTHORIZED to use service uplinks in the 28.35-28.6 GHz and 29.25-30.0 GHz bands and service downlinks in the 18.3-18.8 GHz and 19.7-20.2 GHz bands, in accordance with the technical specifications set forth in its applications and consistent with our rules.

21. IT IS FURTHER ORDERED that Loral CyberStar, Inc. must coordinate all of its Ka-band downlink operations with the U.S. Government systems in accordance with footnote US334 to the Table of Frequency Allocation, 47 C.F.R. § 2.106.

³⁴ See *Ka-band Third Report and Order*, 12 FCC Rcd at 22335-39 ¶¶ 63-72.

³⁵ For example, if a provider were not able to provide service in a particular foreign country because another entity had an exclusive arrangement there, then the provider could not offer satellite service between the United States and that country.

³⁶ Open-Market Reorganization for the Betterment of International Telecommunications Act (ORBIT Act), Pub. L. No. 106-180, § 3, 114 Stat. 48 (2000) (adding Section 648 to the Communications Satellite Act of 1962, 47 U.S.C. § 701 *et seq.*). See also 47 C.F.R. § 25.145(e) (pre-ORBIT Act Commission rule limiting Ka-band licensees' ability to enter into exclusive arrangements with other countries concerning communications to or from the United States).

22. IT IS FURTHER ORDERED that each of the authorizations shall be become NULL and VOID with no further action required on the Commission's part in the event the space station is not constructed, launched and placed into operation in accordance with the technical parameters and terms and conditions of the authorizations by the following dates:

	<u>Orbit Location</u>	<u>Construction Commenced</u>	<u>Launch and Operate</u>
ORION F11	67° W.L.	December 2001	June 25, 2005
ORION F12	126.5° E.L.	December 2001	July 23, 2005

23. IT IS FURTHER ORDERED that the license term for a space station is ten years and will begin to run on the date Loral CyberStar, Inc. certifies to the Commission that the satellites have been successfully placed into orbit and the operations fully conform to the terms and conditions of this authorization.

24. IT IS FURTHER ORDERED that Loral CyberStar, Inc. will prepare any necessary submissions to the International Telecommunication Union ("ITU") and to affected administrations for the completion of the appropriate coordination and notification of obligations for these space stations in accordance with the ITU Radio Regulations. No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be the subject of additional terms and conditions as required to effect coordination of the frequency assignments of other Administrations. 47 C.F.R. § 25.111(b).

25. IT IS FURTHER ORDERED that the temporary assignment of any orbital location to Loral CyberStar, Inc. is subject to change by summary order of the Commission on 30 days notice and does not confer any permanent right to use the orbit and spectrum. Neither this authorization nor any right granted by the authorization shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, or by transfer of control of any corporation holding this authorization to any person except upon application to the Commission and upon a finding by the Commission that the public interest, convenience and necessity will be served thereby.

26. IT IS FURTHER ORDERED that Loral CyberStar, Inc. has 30 days from the date of the release of this *Order and Authorization* to decline this authorization as conditioned. Failure to respond within that period will constitute formal acceptance of the authorization as conditioned.

27. This *Order and Authorization* is issued pursuant to Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of public notice of this *Order and Authorization* (see 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau