

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

In the Matter of)	File Nos.	88-SAT-P/LA-97
)		32-SAT-AMEND-98
CAI Data Systems, Inc.)		
)	IBFS Nos.	SAT-LOA-19970702-00057
Application for Authority to Construct,)		SAT-AMD-19971219-00199
Launch, and Operate a Ka-Band Satellite)		SAT-AMD-19990930-00093
System in the Fixed-Satellite Service)	Call Sign	S2246
)		

ORDER AND AUTHORIZATION

Adopted: August 2, 2001

Released: August 3, 2001

By the Chief, International Bureau:

I. INTRODUCTION

1. By this Order, we authorize CAI Data Systems, Inc. (“CAI Data”) to launch and operate satellite system in geostationary-satellite orbit to provide fixed-satellite services (“FSS”) in the Ka-band.¹ In a companion order, issued today, we assign CAI Data’s satellite to the 125° W.L. orbital location.² This will allow CAI Data an opportunity to provide consumers access to a variety of competitive satellite communications services in a frequency band suitable for advanced broadband, interactive services.

II. BACKGROUND

2. CAI Data is one of 12 applicants seeking authority to operate geostationary satellite orbit (“GSO”) satellites in the second Ka-band processing round. In May 1997, the International Bureau licensed 13 applicants to launch and operate GSO satellite systems as part of the first Ka-band processing round (“First Round”).³ In October 1997, the Bureau established a second processing round (“Second Round”), inviting interested parties to file applications on or before December 22, 1997 for consideration in this round. The Second Round GSO licenses, and, in one case, reservation of orbit locations for a non-U.S. licensed satellite system, will enable new entrants to offer services competitive with those licensed in

¹ For purposes of this order, the terms “Ka-band” or “28 GHz band” refers to the space-to-Earth communications (downlink) in radio frequencies at 17.7-20.2 GHz and the corresponding Earth-to space communications (uplink) in frequencies at 27.5-30.0 GHz. We authorize CAI Data to operate in a portion of these frequency bands indicated in this order.

² *Second Round Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space Stations in the Ka-Band, Order*, DA 01-1693 (Int’l. Bur. rel. August 3, 2001) (“*Second Round GSO Assignment Order*”).

³ The Bureau also licensed one non-geostationary-satellite orbit (“NGSO”) Ka-Band System. See Teledesic Corporation, Application for Authority to Construct, Launch and Operate a Low Earth Orbit Satellite System in the Domestic and International Fixed Satellite Service, Order and Authorization, 12 FCC Rcd 3154 (Int’l Bur. 1997).

the First Round and will allow First Round licensees an opportunity to expand and improve the capabilities and service offerings of their licensed systems

3. CAI Data, a New York corporation, filed its application with the Commission in July 1997.⁴ In the application, CAI Data proposes to construct, launch and operate a Ka-band satellite at an orbit location capable of serving the continental United States. CAI Data proposes to provide high-quality two-way video, voice and data distribution intended to serve business and residential customers throughout the continental United States on a non-common carrier basis. The system will employ a single satellite designed to operate over a period of twelve years. In its original application, CAI Data requests assignment to any of the 93° W.L., 95° W.L. or 103° W.L. orbit locations.⁵ It subsequently requested the 87° W.L. orbit location.⁶

4. CAI Data proposes to operate in 1000 megahertz of spectrum in the 28.35-28.6 GHz, 29.25-29.5 GHz and 29.50-30.0 GHz frequency bands for uplink (Earth-to-space) communications.⁷ It proposes to operate its downlink (space-to-Earth) transmissions in 1000 megahertz of spectrum the 18.55-18.8 GHz, 19.45-19.7 GHz, and 19.7-20.2 GHz frequency bands.⁸ CAI Data also requests authority to conduct its tracking, telemetry and command functions during transfer-orbit operations in the Ku-band frequencies.⁹

5. Two Second Round Ka-band applicants filed petitions to deny the CAI Data application.¹⁰ Petitioners assert that CAI Data should not be assigned any orbital locations in the Second Round because CAI Data has not demonstrated that it has met the Commission's financial rules. Loral Space & Communications also filed comments,¹¹ noting that CAI Data has requested an orbit location that was licensed in the first Ka-band processing round.¹²

III. DISCUSSION

A. Qualifications

6. All applicants requesting authority to launch and operate satellite space stations must present information sufficient to establish their legal, technical, and financial qualifications to hold a Commission license. The rules set forth in Part 25 of the Commission's rules govern FSS applicants and licensees, including this application for GSO FSS in the Ka-band frequencies. The Commission modified the Part

⁴ See Application of CAI Data Systems, Inc., File Nos. 88-SAT-P/LA-97 and 32-SAT-AMEND-98; IBFS Nos. SAT-LOA-19970702-00057, SAT-AMD-19971219-00199 and SAT-AMD-19990930-00093 (July 2, 1997)("CAI Data Application").

⁵ CAI Data Application at p. 1.

⁶ See Letter from James U. Troup, Counsel for CAI Data Systems, Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission (June 8, 2001).

⁷ CAI Data Application at p. 20.

⁸ *Id.*

⁹ CAI Data Application at p. 22.

¹⁰ See Consolidated Petition to Deny filed by Motorola, Inc., filed May 25, 1999, Petition to Deny, Consolidated Reply filed by Motorola Inc., filed July 2, 1999, and Consolidated Petitions to Dismiss, Deny or Defer of Hughes Communications Galaxy, Inc. and Hughes Communications Inc., filed May 21, 1999.

¹¹ Comments of Loral Space & Communications Ltd., filed May 21, 1999.

¹² All issues pertaining to assignment of orbit locations are addressed in the *Second Round GSO Assignment Order* released today. We note however, that CAI Data's requested locations are assigned to First Round licensees.

25 FSS rules in 1997 to incorporate the particular technical requirements for operations in the Ka-band frequencies.¹³ In this and other licenses issued to Second Round FSS applicants in the Ka-band, we will generally apply all Part 25 FSS rules, specifically noting, however, where we decide not to apply existing rules.

1. Number of Orbit Locations

7. The Commission's Part 25 FSS rules include a limit on the number of orbit locations that may initially be assigned to a qualified GSO FSS applicant.¹⁴ The rules also limit the number of additional, expansion orbit locations that may be assigned to applicants with previously licensed systems using the same frequency bands.¹⁵ Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest.¹⁶ The Commission waived the assignment limit rules in the first Ka-Band GSO FSS round because the applicants had agreed to an arrangement that accommodated all pending applications for space stations and left room for additional assignments.¹⁷ In this Second Round, we have determined that we can also accommodate all pending requests for space stations, with room for additional entry. We therefore again waive application of the Commission rule limiting GSO FSS orbit locations.¹⁸ Consequently, we will not, as some applicants request, limit the number of assignments to Second Round applicants.

2. Technical Qualifications

8. Applicants for FSS space station authorizations must meet the technical qualification requirements set forth in the Commission's Part 25 rules. These requirements are designed primarily to implement two-degree orbital spacing between GSO FSS satellites. The Commission's two-degree spacing policy, which was established in 1983, was designed to maximize the number of satellites in orbit by ensuring that satellites in geostationary-satellite orbit can operate without causing harmful interference to other GSO satellites located as close as two-degrees.¹⁹

9. In the *Ka-Band FSS Rules Order*, the Commission adopted its proposal to extend its two-degree spacing policy between in-orbit satellites to space stations in the Ka-band.²⁰ We believe that it remains in the public interest to maximize the number of satellites that can be accommodated in orbit by extending the Commission's existing two-degree GSO spacing policy to Ka-band orbital assignments in

¹³ 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, Third Report and Order, FCC 97-378, 12 FCC Rcd 22310 (1997) ("Ka-Band FSS Rules Order"); Memorandum Opinion and Order, FCC 01-172 (rel. May 25, 2001) (order on petitions for clarification or reconsideration).

¹⁴ 47 C.F.R. § 25.140(e).

¹⁵ 47 C.F.R. § 25.140(f).

¹⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

¹⁷ *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22320 ¶ 24.

¹⁸ For a more detailed discussion, see *Second Round GSO Assignment Order*, at ¶17.

¹⁹ *Licensing of Space Stations in the Domestic Fixed-Satellite Service*, 54 Rad. Reg. 2d (P&F) 577, 589 (1983) ("Two-Degree Spacing Order").

²⁰ *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22320 ¶ 23.

the Second Round. All GSO FSS licensees in the Second Round will therefore be required to be two-degree GSO spacing requirement.

10. CAI Data indicates that its system design is consistent with operation in a two-degree spacing environment.²¹ Our review of CAI Data's application finds nothing to preclude operation in a two-degree spacing environment. The Second Round Ka-band applications were received subsequent to the *Ka-Band FSS Rules Order* but prior to the *18 GHz Band Report and Order*.²² In both orders, rules affecting two-degree orbital spacing were adopted. We remind CAI Data of its continuing obligation to meet all Part 25 rules governing system operations, including Sections 25.202 (frequencies, frequency tolerances, and emission limitations) and 25.210 (technical requirements for space stations in the Fixed-Satellite service).²³ Further, Loral must meet the current Ka-band power flux-density limits ("pfd") of Section 25.208, which were adopted after Loral filed its application.²⁴

3. Financial Qualifications

11. The Commission's FSS rules require that an applicant for a new fixed-satellite system possess sufficient financial resources to cover the construction, launch, and first-year operating costs of each proposed satellite.²⁵ We have waived these rules, however, in those cases where we can accommodate all pending applications. The Commission's financial qualification rules are designed to prevent under-capitalized licensees from holding valuable orbit spectrum resources to the exclusion of others while they attempt to arrange financing to construct and launch the licensed system. Where all applicants can be accommodated, however, granting a license to an under-capitalized applicant will not prevent another applicant from going forward.²⁶ In addition, there is a pro-competition public interest benefit in licensing all applicants, if possible. We waived the financial qualifications rules for the First Round applicants because all of those applicants could be accommodated in the available orbital locations and there were additional orbital locations available for future entrants.²⁷ In the accompanying *Second Round GSO Assignment Order*, we also determine that we can accommodate all pending Second Round applicants' requests for FSS space stations in the Ka-band, and still have orbital locations available for future entrants. We therefore waive the financial qualification requirements for Second Round applicants. Consequently, it is unnecessary to rule on CAI Data's financial qualifications. The petitions to deny filed by Motorola, Inc. and Hughes Communications Galaxy, Inc. raising issues regarding CAI's financial qualifications are therefore rendered moot.

²¹ CAI Data Application at ¶ 3.9.3.

²² *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*, FCC 00-212, 15 FCC Rcd 13,430 (2000) ("*18 GHz Band Report and Order*").

²³ 47 C.F.R. §§ 25.202 and 25.210.

²⁴ 47 C.F.R. §25.208.

²⁵ 47 C.F.R. § 25.140(b)-(e).

²⁶ See generally *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626/2483.5-2500 MHz Frequency Bands, Report and Order*, 9 FCC Rcd 5936 at ¶ 26 (1994) ("*Big LEO Report and Order*").

²⁷ See *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22318 ¶ 18.

B. Spectrum Assignments

1. Service Links

12. In the *28 GHz Band First Report and Order*, the Commission adopted a band segmentation plan that designated one gigahertz of spectrum in each transmission direction for GSO FSS Ka-band systems.²⁸ For uplink (Earth-to-space) transmissions, the Commission designated 250 megahertz of spectrum between 28.35 and 28.6 GHz, 250 megahertz of spectrum between 29.25 and 29.5 GHz (shared on a co-primary basis with non-geostationary satellite orbit, mobile satellite service feeder links), and 500 megahertz of spectrum between 29.5 and 30.0 GHz for GSO FSS operations. For downlink (space-to-Earth) communications, the Commission designated 1100 megahertz of spectrum between 17.7 and 18.8 GHz for GSO FSS operations (shared on a co-primary basis with terrestrial fixed-service) and 500 megahertz of spectrum between 19.7 and 20.2 GHz for primary GSO FSS operations. The Commission later refined the downlink plan for the frequency band between 17.7 and 18.8 GHz, by designating 280 megahertz of spectrum between 18.3 and 18.58 GHz for co-primary GSO FSS and terrestrial fixed service operations and 220 megahertz of spectrum between 18.58 and 18.8 GHz for primary GSO FSS operations.²⁹

13. In its application, CAI Data proposes to use 1000 megahertz of spectrum in the 28.35-28.6 GHz, 29.25-29.5 GHz and 29.5-30.0 GHz frequency bands for its service uplinks. CAI Data's request is consistent with the 28 GHz band plan, and we will therefore authorize CAI Data to operate in these frequencies, subject to the sharing rules adopted in the *28 GHz Band First Report and Order*.

14. In its application, CAI Data proposes to use 1000 megahertz of spectrum at the 18.55-18.8 GHz, 19.45-19.7 GHz and 19.7-20.2 GHz frequency bands for its service downlink bands. We grant this request consistent with the 18 GHz band plan.³⁰ Specifically, we authorize CAI Data to operate its service downlinks in 1000 MHz of spectrum in the 18.3-18.8 GHz and 19.7-20.2 GHz frequency bands. Because the 280 megahertz of spectrum at 18.3-18.58 GHz is to be shared on a co-primary basis with terrestrial-fixed services, GSO FSS operations in this band must be coordinated with these terrestrial operations.

15. In addition, CAI Data must coordinate with U.S. Government systems operating in accordance with footnote US334 to the Table of Frequency Allocations.³¹ This footnote requires coordination of commercial systems with U.S. Government GSO and NGSO FSS systems that are presently operating throughout the 17.8-20.2 GHz frequency band. These Government systems operate in accordance with the power flux-density limits contained in the current International Telecommunication Union ("ITU") Radio Regulations.³² CAI Data must also comply with footnote US255 to the Table of

²⁸ *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, First Report and Order and Fourth Notice of Proposed Rulemaking*, FCC 96-311, 11 FCC Rcd 19005 (1996) ("*28 GHz Band First Report and Order*").

²⁹ *See 18 GHz Band Report and Order*. Stations operating in primary services are protected against interference from stations of "secondary" services. Moreover, stations operating in a secondary service cannot claim protection from harmful interference from stations of a primary service. "Co-Primary" services have equal rights to operate in particular frequencies. *See* 47 C.F.R. §§ 2.104(d) and 2.105(c).

³⁰ *See 28 GHz Band First Report and Order*, 11 FCC Rcd 19005, as modified in *18 GHz Band Report and Order* 15 FCC Rcd at 13443, ¶ 28.

³¹ *See* 47 C.F.R. § 2.106 US334.

³² *See 18 GHz Report and Order*, 15 FCC Rcd at 13473 ¶ 90. The power flux-density limits in the 18.3-18.6 GHz band are -115/-105 dB (W/m²) in any one megahertz band, depending upon the angle of arrival. There are
(continued...)

Frequency Allocations that contains power flux-density limits to protect the Earth exploration satellite service (passive) for the 18.6-18.8 GHz band.³³

2. Tracking, Telemetry and Command

16. Under the Commission's rules, tracking, telemetry and command ("TT&C") operations may be provided at the edges of the frequency bands in which the particular satellite will be providing service.³⁴ CAI Data proposes to conduct TT&C functions in the upper edges of the 29.5-30.0 GHz and 19.7-20.2 GHz bands, specifically at 29.967 GHz and 20.197 GHz. We authorize CAI Data to conduct TT&C operations in these service bands.

17. CAI Data also requests authority to conduct TT&C operations outside its Ka-band service frequencies. Specifically, CAI Data proposes to conduct its command functions in the 14.0003 GHz band and its telemetry functions in the 11.7003 GHz band.³⁵ All of these requested operations are within the Ku-band frequencies, which are not the system's service band. Thus, the request is not consistent with Section 25.202 of the rules.³⁶ As the Commission recently indicated, this rule serves the valid purpose of simplifying coordination among satellites at adjacent orbital locations, and promoting efficient spectrum use.³⁷ CAI Data has not provided a showing to demonstrate that a waiver of Section 25.202(g) for TT&C operations outside its service band would be consistent with the basic purpose of the rule, or that the public interest otherwise requires a waiver. Thus, we deny CAI Data's request.

C. Regulatory Treatment

18. In the *DISCO I Order*, the Commission determined that all fixed-satellite service operators in the C-band and Ku-band could elect to operate on a common carrier or non-common carrier basis.³⁸ The Commission extended this treatment to satellite operators in the Ka-band in the *Ka-Band FSS Rules*

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currently no power flux-density limits in the 19.7-20.2 GHz band. See Letter from William T. Hatch, National Telecommunications and Information Administration, to Dale Hatfield, Chief, Office of Engineering and Technology, Federal Communications Commission (March 29, 2000).

³³ 47 C.F.R. § 2.106 US255 (as revised in the *18 GHz Band Report and Order*, 15 FCC Rcd at 13489) states: In addition to any other applicable limits, the power flux-density across the 200 MHz band 18.6-18.8 GHz produced at the surface of the Earth by emissions from a space station under assumed free-space propagation conditions shall not exceed -95db(W/m²) for all angles of arrival. This limit may be exceeded by up to 3 dB for no more than 5% of the time.

³⁴ 47 C.F.R. § 25.202(g).

³⁵ CAI Data Application at p. 22. The Commission has proposed to modify Section 25.202 to permit TT&C operations in the 3.65-3.7 GHz frequencies, if the applicant makes a "particularized showing of need." *Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band*, FCC 00-363 15 FCC Rcd 20488, 20539 at ¶ 130 (2000).

³⁶ 47 C.F.R. 25.202(g) (the rule "effectively limits FSS operators to operating TT&C links in the same frequency bands as their FSS operations").

³⁷ *Id.* at ¶¶ 129-130.

³⁸ See *In the Matter of Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems and DBSC Petition for Declaratory Rulemaking Regarding the Use of Transponders to Provide International DBS Service*, 11 FCC Rcd 2429, 2436 (1996) ("*DISCO I Order*").

Order.³⁹ Consequently, Second Round Ka-band applicants may elect their regulatory status. CAI Data has elected to operate on a non-common carrier basis, and we authorize it to do so.⁴⁰

D. License Conditions

1. Milestones Schedule

19. As in all other satellite services, all Second Round Ka-band licensees will be required to adhere to a strict timetable for system implementation. This ensures that licensees are building their systems in a timely manner and that the orbit-spectrum resource is not being held by licensees unable or unwilling to proceed with their plans. The implementation schedules for GSO FSS systems in the Ka-band generally track the schedules imposed in other satellite services.

20. Specifically, Section 25.145(f) of the Commission's rules requires Ka-band GSO FSS licensees "[1] to begin construction of [their] 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 [their] assigned orbit locations within five years of grant, and [4] to launch the remainder of [their] satellites by the date required by the International Telecommunication Union to assure international recognition and protection of those satellites."⁴¹ Failure to meet any of these construction milestones will render those satellite authorizations null and void without further action by the Commission.

21. The date by which CAI Data's satellite must be "brought into use" to protect the date priority of the U.S. ITU filings for its service links at this orbital location is June 2005.⁴² We recognize that, in this case, comparing this ITU "bringing into use" date to our launch milestone has the incongruous result of our rules requiring CAI Data to launch its satellites into its assigned orbit location by August 2006, *i.e.*, after the date CAI Data is required to bring its satellite location into use to protect the date priority of the U.S. ITU filings for its orbital locations. To address this misalignment, we require CAI Data to launch its satellite into its licensed orbit location and "bring into use" all of the frequency assignments it plans to operate at that orbit location by the ITU "bringing into use" date. This will protect the United States filing at this location and thus, CAI Data's ability to coordinate and gain international recognition for the satellite at its assigned orbit location. Moreover, we do not anticipate that meeting this milestone will be unduly difficult. Under standard industry practice, it generally takes two to three years to construct and launch a satellite.⁴³ CAI Data will have nearly four years in which to launch its satellite into its assigned location by the ITU "bringing into use" date.

³⁹ *Ka-band FSS Rules Order*, 12 FCC Rcd at 22310 at ¶¶ 58-60.

⁴⁰ *See* CAI Data Application at p. 8.

⁴¹ 47 C.F.R. § 25.145(f). *See Ka-Band FSS Rules Order*, 12 FCC Rcd at 22334-35 ¶ 61 & n.77 (1997).

⁴² Specifically, the satellite at 125° W.L. must be brought into use by June 25, 2005. ITU Radio Regulations require that these satellites be brought into use no later than nine years from the date ITU publishes the advance publication information. The ITU initially required that these locations be brought into use within six years after receipt of their advance publication information, with an option to extend that date by an additional three years upon request. Since WRC-2000, satellite networks at orbit locations whose advance publication information was received by the ITU before November 22, 1997 have been automatically granted the optional three-year extension. Because the orbit location assigned to CAI Data falls in this category, its June 2005 bring into use dates cannot be further extended.

⁴³ *See, e.g., In the Matter of the Application of Comsat Corporation*, 12 FCC Rcd 12059, 12075 ¶ 33 n. 68 (Int'l Bureau 1997)("It has been our experience that it takes an average of two years to construct and launch a satellite....").

2. Reporting Requirements

22. We will follow the Part 25 rules for reporting requirements for FSS systems, including an annual report describing the status of satellite construction and anticipated launch date, and a detailed description of the use made of each transponder on its in-orbit satellite.⁴⁴ CAI Data must file this report on June 30 of each year, containing information current as of May 31 of that year.

3. International Coordination

23. In general, we will follow the applicable advance-publication, coordination, and notification procedures as set forth in the ITU Radio Regulations in coordinating CAI Data's satellite with other affected administrations. We will also require that CAI Data provide the Commission with the international coordination information required by our rules.⁴⁵ The orbit location assigned today may be co-located or within two degrees of a non-U.S. licensed satellite filing having date priority in its ITU filings. Under these circumstances, U.S. licensees assigned to these locations are reminded that they take these licenses subject to the outcome of the international coordination process, and that the Commission is not responsible for the success or failure of the required international coordination.

IV. CONCLUSION

24. Upon review of CAI Data's application, we find that CAI Data 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 this application will serve the public interest, convenience, and necessity. As specified in the *Second Round GSO Assignment Order*, we have assigned CAI Data to the 125° W.L. orbital location.

V. ORDERING CLAUSES

25. IT IS ORDERED that Application File Nos. 88-SAT-P/LA-97 and 32-SAT-AMEND-98; New IBFS Nos. SAT-LOA-19970702-00057, SAT-AMD-19971219-00199 and SAT-AMD-19990930-00093 ARE GRANTED IN PART, as discussed above, and CAI Data Systems, Inc. IS AUTHORIZED to launch and operate one GSO FSS satellite, to provide fixed-satellite service in the 18.3-18.8 GHz and 19.7-20.2 GHz, 28.35-28.6 GHz, 29.25-29.5 GHz, 29.50-30.0 GHz frequency bands at the 125° W.L. orbital location.

26. IT IS FURTHER ORDERED that CAI Data Systems, Inc.'s authorization shall become NULL and VOID with no further action 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 this authorization by the following dates:

<u>Construction Commenced</u>	<u>Launch and Operate</u>
Satellite at 125 ° W.L. August 2002	June 25, 2005

27. IT IS FURTHER ORDERED that CAI Data Systems Inc. must coordinate its Ka-band downlink operations with U.S. Government systems including Government operations to earth stations in foreign countries, in accordance with footnote US334 to the Table of Frequency Allocations, 47 C.F.R. § 2.106, and in accordance with the *18 GHz Report and Order*, 15 FCC Rcd at 13473 ¶ 90.

⁴⁴ See 47 C.F.R. § 25.210(1)(1)(2)(3).

⁴⁵ See 47 C.F.R. § 25.111(b).

28. IT IS FURTHER ORDERED THAT CAI Data Systems Inc. shall conduct its operations pursuant to this authorization in a manner consistent with the power flux-density requirements of 47 C.F.R. § 2.106 US255 and 47 C.F.R. § 25.208 of the Commission's Rules.

29. IT IS FURTHER ORDERED that the license term for the space station is ten years and will begin to run on the date CAI Data Systems, Inc. certifies to the Commission that the authorized satellite has been successfully placed into orbit and the operations fully conform to the terms and conditions of this authorization.

30. IT IS FURTHER ORDERED that CAI Data Systems, Inc. will prepare any necessary submissions to the International Telecommunication Union and to affected administrations for the completion of the appropriate coordination and notification obligations for these space stations in accordance with the International Telecommunication Union Radio Regulations. We also remind CAI Data Systems, Inc. that 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 subject to additional terms and conditions as required to effect coordination of the frequency assignments of other administrations, 47 C.F.R. § 25.111(b).

31. IT IS FURTHER ORDERED that the temporary assignment of any orbital location to CAI Data Systems, 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 this 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.

32. IT IS FURTHER ORDERED that CAI Data Systems, Inc. is afforded 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.

33. This Order 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 (*see* 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau