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

In the Matter of	)	
	)	
PANAMSAT LICENSEE CORP.	)	SAT-LOA-19991207-00118
	)	SAT-AMD-20030228-00020
Application for authority to launch	)	Call Sign S2386
a fixed satellite service satellite	)	
and to operate the C-Band payload	)	
of that satellite at 127° W.L.	)	

ORDER AND AUTHORIZATION

Adopted: September 30, 2003 Released: September 30, 2003

By the Deputy Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. By this Order, we authorize PanAmSat Licensee Corp. ("PanAmSat") to launch and operate a fixed satellite service satellite. The satellite will be located at the 127° W.L. orbital location.[1] Grant of this application will permit PanAmSat to continue to provide video, audio and data services to C-band customers in the 48 contiguous states, southern Canada, Mexico, Alaska, Hawaii and the Caribbean.

II. BACKGROUND

2. PanAmSat's Galaxy IX satellite, a C-Band[2] satellite, currently operates at the 127° W.L. orbit location under an FCC authorization.[3] On November 19, 1999,

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[1] On July 23, 2003, PanAmSat filed a request for Special Temporary Authority to conduct in-orbit testing at the 144.5° W.L. orbital location for the C-band payload aboard the satellite. File No. SAT-STA-20030723-00135. This request is still pending.

[2] For purposes of this order, the term "C-Band" refers to the 3700-4200 MHz and 5925-6425 MHz frequency bands.

[3] *Hughes Communication Galaxy*, 11 FCC Rcd 16425 (1996). In April 1997, the Commission authorized PanAmSat to merge with Hughes Communications, Inc. As a result, PanAmSat Corporation became the licensee of the Galaxy IX satellite. *Hughes Communications, Inc. and Affiliated Companies and Anselmo Voting Trust, PanAmSat Licensee Corp. and Affiliated Companies*, 12 FCC Rcd 7534 (1997). In 2002, the Galaxy IX license was transferred to PanAmSat Licensee Corp. pursuant to a *pro forma* transfer of control. *See* Application File No. SAT-ASG-20011206-00121.

PanAmSat filed an application to launch and operate a hybrid C/Ku[4] band satellite at that location.[5] New Skies, N.V. ("New Skies"), SES Americom, Inc. ("SES") and Loral Space & Communications Ltd. ("Loral") filed petitions to deny PanAmSat's request to add Ku-band operations to its C-band authorization. The petitions requested that the Commission deny or defer grant of the application because PanAmSat was seeking to expand the scope of its license by replacing a C-band satellite with a hybrid C/Ku-band satellite. According to Loral and SES, a processing round would be required to permit PanAmSat to operate in the Ku-band. New Skies noted that it had International Telecommunication Union ("ITU") date priority over PanAmSat with respect to the Ku-band at the 127° W.L. orbit location and that the C-Band satellite was being replaced well before the end of its useful life.[6]

3. On February 25, 2003, PanAmSat filed an amendment to its application.[7] The amendment: 1) changes the name of the proposed satellite from Galaxy IX-R to Galaxy XIII; 2) changes the applicant from PanAmSat Corporation to PanAmSat Licensee Corp., an affiliated company; 3) updates PanAmSat's financial qualifications; and 4) amends the application by withdrawing its request for an authorization to operate a Ku-band payload on the satellite. PanAmSat states that the satellite will include both C- and Ku-Band payloads. However, the Ku-band payload is licensed by Japan,[8] and is the subject of a request for inclusion on the Permitted Space Station List filed by Horizons LLC.[9] According to PanAmSat, Horizons LLC will operate the Ku-Band payload under the name "Horizons I." In light of its amendment, PanAmSat states that the oppositions to its request to operate in the Ku-band are moot.

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[4] For purposes of this order, the term "Ku-Band" refers to the 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands.

[5] *See* Satellite Policy Information Report No. SAT-00030 (Dec. 23, 1999).

[6] New Skies N.V. Petition to Deny filed January 8, 2000; Loral Space & Communications Ltd. Petition to Deny filed January 8, 2000; and SES Americom Petition to Deny filed January 8, 2000. PanAmSat filed a consolidated opposition to these petitions on February 8, 2000 and each of the petitioners filed a reply.

[7] PanAmSat Amendment to Application (filed February 25, 2003). *See* Policy Branch Information Report No. SAT-00140 (March 18, 2003).

[8] *See* File No. SAT-PDR-20030210-00015. *See also* Policy Branch Information Report No. SAT-00137 (February 24, 2003). Horizons LLC is jointly owned, on a 50/50 basis, by PanAmSat and JSAT International, Inc., a Delaware corporation. JSAT International, Inc. is wholly owned by JSAT Corporation (JSAT), a Japanese corporation. According to JSAT's annual report for 2003, as of March 31, 2003, approximately 18% of JSAT Corporation's stock was owned by NTT Communications Corporation (NTT) and NTT West Corporation, a subsidiary of NTT. JSAT Corporation Annual Report for 2003, at 56 (available at http://www.jsat.net/en/investor/index.html). As of the same date, the Japanese government held an approximately 46% interest in NTT. Nippon Telephone and Telegraph Corporation Annual Report to the Securities and Exchange Commission on Form 20-F, at 84 (available at http://www.ntt.co.jp/ir/e/20-F.html).

[9] The actions taken in this *Order* are without prejudice to action concerning Horizons' request. Horizons' request will be addressed separately.

III. DISCUSSION

4. We find that PanAmSat possesses the requisite legal and technical qualifications to launch and operate the Galaxy XIII satellite at 127° W.L. Further, we find that PanAmSat's proposed C-Band operations will comply with all Commission technical requirements, including the Commission's two degree spacing policy, and its full frequency reuse requirement.[10] With respect to the fact that a communications payload authorized by another Administration will be on board the satellite, the Commission has previously observed that nothing in the ITU Radio Regulations appears to preclude such an arrangement.[11] We have exchanged letters with the Japan Administration in order to ensure that there is a mutual understanding regarding the operation of the Galaxy XIII/Horizons I satellite. The understandings, and the factual background for these understandings, are provided in Appendix A and are material considerations for the authorization contained in this order.

5. We agree with PanAmSat that the withdrawal of its request for a Ku-Band authorization renders moot the concerns raised in the petitions to deny in this regard. The only other issue pertaining to the C-band payload is whether we characterize the C-band payload as a replacement. Because PanAmSat's request is grantable regardless of whether the application is considered as a replacement or as a request for a new satellite, we need not address this issue. Accordingly, we are dismissing the petitions to deny.

6. We also note that the Galaxy XIII satellite has been constructed and is tentatively scheduled for a launch in late September of 2003. Because this authorization is issued prior to the effective date of certain requirements and rules adopted in our Space *Station Licensing Rules Order*, those requirements and rules will not be applicable to this authorization.[12] In particular, this authorization will not be subject to a bond requirement. We are specifying a milestone date for successful completion of the satellite launch.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that PanAmSat's application, File No. SAT-LOA-19991207-00118, as amended by File No. SAT-AMD-20030228-00020, IS GRANTED and PanAmSat is authorized:

(a) to operate the GALAXY XIII payload at 127° W.L. (Call Sign S2386) in the 5925-6425 MHz and 3700-4200 MHz frequency bands in accordance with terms, conditions, and technical specifications set forth in its application; and

[10] 47 C.F.R. §§ 25.210 (e),(f),(g).

[11] *See AMSC Subsidiary Corporation,* Order and Authorization, DA 98-493, 13 FCC Rcd 12316, 12320 (Int Bur. 1998) (U.S.-Canadian licensing for the MSAT-1 satellite). *See also Echostar Satellite Corporation*, Order and Authorization, DA 03-2559, FCC Rcd (Int'l Bur. 2003) (U.S.-Papua New Guinea licensing of C-band payload on EchoStar 9 satellite).

[12] *Id.* at para. 167.

(b) to construct and launch a satellite, capable of operating in the 5925-6425 MHz, 3700-4200 MHz, 11.7-12.2 MHz, and 14.0-14.5 MHz frequency bands, into the 127° W.L orbital location.

8. IT IS FURTHER ORDERED that, unless extended by the Commission for good cause shown, this authorization will become null and void in the event the satellite authorized by this Order is not successfully launched by July 31, 2004.

9. IT IS FURTHER ORDERED that PanAmSat's operations at the 127° W.L. orbital location SHALL BE coordinated with adjacent satellites concerning any operational parameters that are different from those previously agreed to for the operation of the Galaxy IX satellite at that location.

10. IT IS FURTHER ORDERED that, PanAmSat shall prepare any necessary submissions to the International Telecommunication Union (ITU) and to affected administrations for the completion of the appropriate coordination and notification obligations for this space station in accordance with the ITU Radio Regulations. We also remind all licensees 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. *See* 47 C.F.R. § 25.111(b).

11. IT IS FURTHER ORDERED that PanAmSat is obliged to comply with the applicable laws, regulations, rules, and licensing procedures of any countries it proposes to serve.

12. IT IS FURTHER ORDERED that the petitions to deny filed by New Skies, N.V., SES Americom, Inc. and Loral Space & Communications Ltd. ARE DISMISSED.

13. PanAmSat is afforded thirty days from the date of release of this order and authorization to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.

14. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegated 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 the release of this order (see 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Cassandra C. Thomas

Cassandra C. Thomas
Deputy Chief, Satellite Division
International Bureau

APPENDIX A

International Bureau

Federal Communications Commission
Washington, DC 20554

September 25, 2003

Mr. Kiyoshi Kono
Director
International Frequency Policy Office
Telecommunications Bureau
Ministry of Public Management,
Home Affairs, Posts and Telecommunications
of Japan
2-1-2 Kasumigaseki, Chiyoda-ku, Tokyo, 100-8926, JAPAN

Mr. Takeji Takei
Director
Fixed Radiocommunications Division
Telecommunications Bureau
Ministry of Public Management, Home Affairs,
Posts and Telecommunications of Japan
2-1-2 Kasumigaseki, Chiyoda-ku, Tokyo, 100-8926, JAPAN

Dear Mr. Kono and Mr. Takei:

This letter confirms the understandings of the U.S. Federal Communications Commission (FCC) and the Ministry of Public Management, Home Affairs, Posts and Telecommunications of Japan (MPHPT) concerning the operations of a Fixed-Satellite Service (FSS) satellite at the 127° W.L. orbital location, by PanAmSat Corporation, a U.S. space segment licensee (PanAmSat), and Horizons Satellite Limited Liability Company (Horizons LLC), a Delaware company that would operate at that orbital location pursuant to an authorization by Japan.[1]

Background

PanAmSat is authorized by the FCC to operate at the 127° W.L. orbital location in the C-Band pursuant to the *USASAT-24D and -35C* filings with the International Telecommunication Union (ITU). Currently, the Galaxy IX satellite operates at the 127° W.L. orbital location pursuant to an FCC authorization issued in 1996.[2] PanAmSat is

[1] Horizons LLC has filed a Petition for Declaratory Ruling with the FCC in order to place the Horizons I payload on the FCC's Permitted Space Station List. *See* Horizons Satellite LLC, Petition for Declaratory Ruling to Add the Ku-Band Portion of Horizons I to the Permitted Space Station List, File No. SAT-PDR-20030210-0015. PanAmSat Licensee Corp. has filed an application requesting authority to operate a new fixed satellite service earth station at Napa, California, to communicate with Horizons I. *See* PanAmSat Licensee Corp., Application for Authority to Operate a Fixed Satellite Service Earth Station, File No. SES-LIC-20030113-0042.

[2] *In the Matter of Applications of Hughes Communications Galaxy, Inc.*, 11 FCC Rcd 16425 (1996).

seeking FCC authorization to launch a satellite as a replacement for Galaxy IX and to operate a C-band payload aboard that replacement satellite, to be known as "Galaxy XIII". The satellite will also include Horizons LLC's Ku-band payload, to be called "Horizons I." Ownership interests in PanAmSat are disclosed in PanAmSat's filings with the FCC. Neither the FCC nor any U.S. government agency has any ownership interest, direct or indirect, in PanAmSat or the Galaxy XIII/Horizons I satellite.

Horizons LLC has a provisional authorization from MPHPT to operate a Ku-Band payload (transmitting at 11.7-12.2 GHz) at the 127 ° W.L. orbital location pursuant to Japan's N-SAT-127W filing with the ITU. Horizons LLC's provisional authorization is contained in MPHPT document No. 02-00068669, dated October 28, 2002. MPHPT's licensing procedures provide for issuance of a full license once a satellite is launched and makes its first successful communication. Horizons LLC is jointly owned, on a 50/50 basis, by PanAmSat and JSAT International, Inc., a Delaware corporation. JSAT International, Inc., is wholly owned by JSAT Corporation, a Japanese corporation. MPHPT does not have any ownership interest, direct or indirect, in Horizons LLC or the Galaxy XIII/Horizons I satellite.

PanAmSat and JSAT International have entered into an agreement concerning Horizons LLC and the operations of the Galaxy XIII/Horizons I satellite. Under the agreement, PanAmSat will own and operate the C-band payload aboard the satellite and have exclusive rights to make any decision or take any actions with respect thereto. Horizons LLC will control the Ku-band payload aboard the satellite, and Horizons LLC's owners, PanAmSat and JSAT International, will share equally in all obligations related to the Ku-band portion. Pursuant to the agreement, PanAmSat shall use its reasonable best efforts to obtain a license from the FCC to launch and operate the GALAXY-XIII satellite and JSAT International is required to use its reasonable best efforts to obtain the issuance of a license for the Ku-band payload from the MPHPT.

The agreement sets forth procedures for allocating the risk of loss in the event that the C-band or Ku-band payloads, or both, are lost, and to address any satellite system or subsystem failures, such as a loss of power that impacts both the C- and Ku- Band payloads. The agreement provides for consultation between JSAT International and PanAmSat on routine operational matters. The agreement provides, however, that PanAmSat may unilaterally exercise its engineering judgment to take emergency actions in order to protect the health or performance of the satellite. The total actual or constructive loss of the satellite is a basis for termination of the agreement.

Telemetry, Tracking and Control (TT&C) of the satellite shall be provided by PanAmSat pursuant to an FCC license for Galaxy XIII. PanAmSat and JSAT International agree to share equally the risk of loss and liabilities arising from third party claims relating to the project, including those resulting from the provision of TT&C services. TT&C will be provided using an earth station located in the United States.

PanAmSat and JSAT International agree under their agreement to comply with all U.S. export control regulations and all other laws and regulations which apply to the agreement.

Understandings

Licensing Administrations. For purposes of Regulation 18.1 of the ITU Radio Regulations, the MPHPT is the licensing Administration for the Ku-band payload aboard the satellite insofar as it operates at the 127° W.L. orbital location, and the FCC is the licensing Administration for the C-band payload aboard the satellite insofar as it operates at the 127° W.L. orbital location. The FCC will be responsible for ensuring licensing of any operations of the satellite not at the 127° W.L. orbital location, except for initial testing of the Ku-Band payload not at the 127° W.L. orbital location, which will be authorized by the MPHPT. MPHPT and the FCC will consult with each other prior to any transfer of their respective licensing authority to a third Administration. MPHPT and the FCC are the responsible agencies in, respectively, Japan and the United States, with respect to the subject matter and implementation of the understandings set forth in this letter.

Compliance with ITU Requirements. MPHPT will have responsibility for compliance with the ITU Radio Regulations (in particular the coordination and notification procedures) for the Japanese licensee's operations at 127° W.L. The FCC will have responsibility for such compliance with the ITU Radio Regulations for the U.S. licensee's operations at 127° W.L.

Control Over Physical Operations. The U.S. licensee will maintain control over the physical operation of the satellite, including TT&C, from an earth station located in the United States, and will comply with any U.S. statute or FCC rule, regulation, or order – including, but not limited to, any direction by the U.S. President under Section 706(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 706(c) – without the need for consultation with, or approval from, MPHPT. The FCC will notify MPHPT as soon as practicable of any such rule, regulation, or order it issues, or intends to issue, to the U.S. licensee regarding the physical operations of the satellite.

In-Orbit Anomalies. In the event of in-orbit anomalies which result in the satellite no longer being maintained at the 127° W.L. orbital location, the U.S. licensee will comply with any FCC rule, regulation, or order without the need for consultation with, or approval from, MPHPT. The FCC will notify MPHPT as soon as practicable of any such rule, regulation, or order it issues, or intends to issue, to the U.S. licensee in the event of in-orbit anomalies.

End-of-Life Procedures. The U.S. licensee will comply with any FCC rules, regulations, or orders regarding satellite end-of-life procedures, without the need for consultation with, or approval from, MPHPT. The FCC will notify MPHPT as soon as practicable of any such rule, regulation, or order it issues, or intends to issue, to the U.S. licensee regarding end-of-life procedures.

Sincerely,

Cassandra C. Thomas for

Thomas S. Tycz
Chief
Satellite Division
Federal Communications Commission

If the above conforms to your understanding, this letter when signed below with your signature constitutes an understanding between MPHPT and the FCC.

高野 潔

Mr. Kiyoshi Kono
Director
International Frequency Policy Office
Telecommunications Bureau
Ministry of Public Management, Home Affairs,
Posts and Telecommunications of Japan

武居文二

Mr. Takeji Takei
Director
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