

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)	
)	
SpaceData International LLC)	
)	File No. SAT-WAV-20021105-00220
Petition for Waiver)	
)	

ORDER

Adopted: January 9, 2003

Released: January 10, 2003

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. With this Order, we grant SpaceData International LLC (SDI) a limited waiver of one of the conditions we placed on its license to operate for commercial purposes, on a time-share basis, four satellites now operating as part of the Tracking and Data Relay Satellite System (TDRSS), owned by the National Aeronautics and Space Administration (NASA).¹ This waiver will enable SDI to facilitate the exploration of a particular portion of the ocean floor in the Gulf of Mexico, which in turn may facilitate the development of new oil and gas resources.

II. BACKGROUND

2. SDI provides a service it calls the SeismicStar Communications System (SeismicStar) to the marine seismic industry, which surveys the ocean floor to identify potential oil and gas deposits.² Before the SeismicStar service was available, survey vessels located oil and gas deposits by taking soundings of the surveyed areas, recording the soundings on computer data storage tapes, and transporting the tapes to land-based data-processing centers by ship.³ This process could take from six weeks to several months.⁴ SeismicStar greatly expedites this process by enabling survey vessels to transmit their data by satellite to NASA's facility in White Sands, New Mexico, and then to a data processing center in Houston, Texas via land lines.⁵

¹ See Application of SpaceData International LLC For Authority to Operate on a Time Share Basis NASA's Tracking and Data Relay Satellite System, *Order and Authorization*, 16 FCC Rcd 9266 (Int'l Bur., 2001) (*SDI Order*).

² *SDI Order*, 16 FCC Rcd at 9266 (para. 2).

³ *SDI Order*, 16 FCC Rcd at 9266 (para. 2).

⁴ *SDI Order*, 16 FCC Rcd at 9266 (para. 2).

⁵ *SDI Order*, 16 FCC Rcd at 9266-67 (paras. 2-4).

3. SDI has contracted with NASA to use excess capacity on four of NASA's TDRSS satellites to provide its service.⁶ In 2001, the Bureau granted SDI a license to operate those four TDRSS satellites on a time-share basis under Section 303(c) of the Communications Act of 1934, as amended (Act).⁷ SDI's authorization is subject to several conditions, including a prohibition from using TDRSS satellites to transmit to or receive from earth stations on any vessel when it is located less than 100 km from any coastline.⁸

4. On November 4, 2002, SDI requested a waiver of this 100-km condition for one earth station on one vessel, the R/V Geo Pacific, for purposes of conducting an ocean floor survey in a specific area in the Gulf of Mexico south of Louisiana.⁹ The area to be surveyed is bounded by the coordinates in the table below. This area is 32.11 km from shore at its closest point.¹⁰ SDI requests waiver of this condition from December 15, 2002 to December 15, 2004.¹¹ SDI states that it plans to communicate with the R/V Geo Pacific only with the TDRSS satellites located at 41° W.L. and 47° W.L.¹² In 2001, we granted SFI a waiver similar to the one it seeks here. We conditioned that waiver on SDI communicating with the vessel at issue only with the TDRSS satellites located at 41° W.L. and 47° W.L.¹³

COORDINATES OF SDI'S PROPOSED SURVEY AREA

28° 45' 46.5696" N	91° 51' 11.3724" W
27° 57' 10.152" N	91° 51' 11.3256" W
27° 56' 56.2596" N	90° 5' 0.6036" W
28° 43' 29.0424" N	90° 5' 23.6724" W

5. We placed SDI's waiver request on public notice,¹⁴ and no comments were filed. For the reasons discussed below, we grant SDI's petition for waiver, subject to conditions.

⁶ These satellites are located at 41° W.L., 47° W.L., 171° W.L., and 174° W.L. *SDI Order*, 16 FCC Rcd at 9266-67 (para. 3).

⁷ *SDI Order*, 16 FCC Rcd at 9273 (para. 22), *citing* 47 C.F.R. § 303(c).

⁸ *SDI Order*, 16 FCC Rcd at 9274 (para. 26).

⁹ Letter from Kira A. Merski, Counsel for SDI, to Thomas S. Tycz, Chief, Satellite Division, International Bureau (dated Nov. 4, 2001) (SDI Petition) at 1-2. SDI later provided a map of the planned survey area. Letter from Kira A. Merski, Counsel for SDI, to Thomas S. Tycz, Chief, Satellite Division, International Bureau (dated Nov. 5, 2001) (*November 5 Letter*), Att. at 4.

¹⁰ *November 5 Letter*, Att. at 4.

¹¹ *November 5 Letter*, Att. at 3.

¹² *November 5 Letter*, Att. at 2.

¹³ SpaceData International, LLC, Petition for Waiver, *Order*, 16 FCC Rcd 18041, 18043-44 (para. 8) (Int'l Bur., Sat. Div. 2001) (*First SDI Waiver Order*).

¹⁴ Policy Branch Information, *Public Notice*, Report No. SAT-00128 (released Nov. 15, 2002); Policy Branch Information, *Public Notice*, Report No. SAT-00129 (released Nov. 29, 2002).

III. DISCUSSION

6. Rules may be waived if there is "good cause" to do so.¹⁵ Waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule.¹⁶ Circumstances that would justify a waiver include "considerations of hardship, equity, or more effective implementation of overall policy."¹⁷ Also, if the Commission grants waivers, it must identify and articulate reasonable standards that are predictable, workable, and not susceptible to discriminatory application.¹⁸ Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest.¹⁹

7. In 2001, we granted SDI a waiver similar to the one it seeks here.²⁰ The proposed survey area in SDI's 2001 waiver request is similar to the one in the waiver request before us now. In both cases, the survey area was no less than 32 km from shore at its closest point, and much further away from any population center or government facility. The waiver request is for transmissions between the TDRSS satellites at 41° W.L. or 47° W.L. and one ship, for a limited time. In the *First SDI Waiver Order*, we found that granting SDI a waiver under these circumstances should not cause a risk of harmful interference into U.S. Government operations.²¹ We also found that granting the waiver furthers the public interest by facilitating the development of energy resources in the Gulf of Mexico. There is nothing in the record that causes us to revisit these conclusions.²²

8. Accordingly, we grant SDI a limited waiver of the 100-km condition we placed on SDI's license in the *SDI Order*. Under this waiver, SDI may operate the TDRSS satellites located at 41° W.L. and 47° W.L. to transmit to and receive from its earth station on the vessel R/V Geo Pacific, while that vessel is within the area described in the table above, until December 15, 2004. All the other conditions placed on SDI's license shall remain in force, including the condition "Based on non-conformance with the U.S. Table of Frequency Allocations, the operations will be

¹⁵ See Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁶ *Northeast Cellular*, 897 F.2d at 1166. See also *Comsat Corporation, Petition for Partial Relief from the Current Regulatory Treatment of Comsat World Systems' Switched Voice, Private Line, and Video and Audio Services, Order*, 11 FCC Rcd 9622, 9625 (para. 10) (1996); *Petition of General Communications, Inc. for a Partial Waiver of the Bush Earth Station Policy, Memorandum Opinion and Order*, 11 FCC Rcd 2535, 2536 (para. 4) (Int'l Bur. 1996).

¹⁷ *WAIT Radio*, 418 F.2d at 1159.

¹⁸ *Northeast Cellular*, 897 F.2d at 1166.

¹⁹ *WAIT Radio*, 418 F.2d at 1157; *Dominion Video Satellite, Inc., Order and Authorization*, 14 FCC Rcd 8182, 8185 (para. 5) (Int'l Bur., 1999) (*Dominion Video*).

²⁰ *First SDI Waiver Order*, 16 FCC Rcd 18041.

²¹ *First SDI Waiver Order*, 16 FCC Rcd at 18043 (para. 7).

²² *First SDI Waiver Order*, 16 FCC Rcd at 18044 (para. 9).

on an unprotected, non-harmful interference basis to all present and future U.S. Government stations."²³

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that SpaceData International, LLC IS GRANTED a waiver of condition (g), imposed in its license in paragraph 26 of Application of SpaceData International LLC For Authority to Operate on a Time-Share Basis NASA's Tracking and Data Relay Satellite System, *Order and Authorization*, 16 FCC Rcd 9266, 9274 (para. 26) (Int'l Bur., 2001) (*SDI Order*). This waiver is limited to transmissions to and from the vessel R/V Geo Pacific while that vessel is in the area described above, until December 15, 2004.

10. IT IS FURTHER ORDERED, that this waiver is subject to the following conditions:

- (a) SDI is prohibited from communicating with the earth station on the R/V Geo Pacific while that vessel is in the area described in the area above before the release date of this Order, and after December 15, 2004.
- (b) SDI is authorized to use only the two TDRSS satellites located at 41° W.L. and 47° W.L. to communicate with the earth station on the R/V Geo Pacific, and only while that vessel is in the area described in the table above.
- (c) With the exception of the above, all the conditions contained in SDI's license remain in force, including but not limited to the following: "Based on non-conformance with the U.S. Table of Frequency Allocations, the operations will be on an unprotected, non-harmful interference basis to all present and future U.S. Government stations."

11. 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

Thomas S. Tycz
Chief,
Satellite Division
International Bureau

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SDI Order, 16 FCC Rcd at 9274 (para. 26).