



Federal Communications Commission
Washington, DC 20554

International Bureau

DA 04-2611

August 24, 2004

Mr. Otis B. Brown
Dean, Rosenstiel School of Marine & Atmospheric Sciences
University of Miami
4600 Rickenbacker Cswy.
Miami, FL 33149-1098

Re: University of Miami - Rosenstiel School of Marine & Atmospheric Sciences,
Application for Authority to operate two receive-only 11-meter antennas for the
Earth Exploration Satellite Service in the X-band, File No. SES-LIC-20040527-
00735 (Call Sign E040248).

Dear Mr. Brown:

On May 27, 2004, the University of Miami - Rosenstiel School of Marine & Atmospheric Sciences ("University of Miami") filed an application for authority to operate two receive-only Earth Stations to provide Earth Exploration Satellite Service by accessing foreign satellites. Specifically, the proposed Earth Stations will be used to receive data from the Canadian-licensed RADARSAT1 and RADARSAT2 satellites and the French-licensed SPOT2, SPOT4, SPOT5, ERS2, and ENVISAT satellites. For the reasons discussed below, we dismiss the application as defective, without prejudice to refileing.

The Commission's rules¹ require applicants for earth stations that will be used to communicate with foreign satellites, to include all applicable items of information concerning the satellites listed in Section 25.114 of the rules.² In the *First Space Station Reform Order*,³ the Commission affirmed the policies embodied in this rule, and indicated it would require applications to be substantially complete when filed.⁴ In response to item 42a of the Main Form,

¹ 47 C.F.R. § 25.137.

² 47 C.F.R. § 25.114(c).

³ Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 (para. 244) (2003) (*First Space Station Reform Order*); International Bureau To Streamline Satellite And Earth Station Processing, *Public Notice*, Report No. SPB-140, October 28, 1998 (emphasizing the obligation to comply with 47 C.F.R. § 24.114(c) and stating that applications that did not comply would be dismissed).

⁴ *First Space Station Reform Order*, 18 FCC Rcd at 10852 (para. 244), *citing* *Space Station Reform NPRM*, 17 FCC Rcd at 3875 (para. 84).

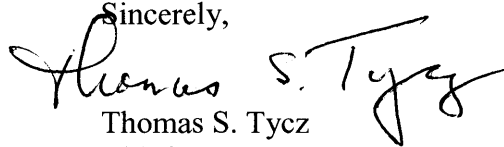
FCC Form 312, the University of Miami did not provide the information specified in 25.114 of the rules concerning the foreign satellites from which it proposes to receive transmissions. Therefore, we dismiss the application as defective without prejudice to refiling.

We also note that Section 25.217(d) of the Commission's rules⁵ require submission of information concerning the design and operational strategies non-geostationary satellites will use to mitigate orbital debris, including a casualty risk assessment if end-of-life disposal of the satellite involves atmospheric reentry. On June 9, 2004, the Commission adopted new rules that provide additional guidance concerning such submissions.⁶ On June 16, 2004, the Commission released a Public Notice to assist applicants in preparing casualty risk assessments.⁷ In that Notice, we also advised applicants that their applications will be considered incomplete and therefore dismissed, if the requisite information is not submitted. The University of Miami should take these actions into consideration in connection with any re-filing of its application.

In addition, although not warranting dismissal, we note some additional defects in the application that should be corrected before refilling. For example, the applicant incorrectly checked several items in the Main form of the FCC Form 312, such as item 17b2. The correct item is 17b1 since University of Miami requests to operate antennas in the Earth Exploration Satellite Service. Item 20a should not be checked since the type of service requested is not the Fixed-Satellite service. Item E16, Schedule B, does not apply to the antennas operating in the Earth Exploration Satellite Service.

Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), we find that Application, File No. SES-LIC-20040527-00735 (Call Sign E040248) is defective. We therefore dismiss the petition as amended without prejudice to refiling.⁸

Sincerely,



Thomas S. Tycz
Chief
Satellite Division

⁵ 47 C.F.R. § 25.217(d).

⁶ *Mitigation of Orbital Debris*, FCC 04-130, released on June 21, 2004.

⁷ *Public Notice*, International Bureau, Satellite Division Information, Orbital Debris Mitigation: Clarification of 47 C.F.R. Sections 25.13(b), 25.145(c)(3), 25.146(i)(4) and 25.217(d) Regarding Casualty Risk Assessment of Satellite Atmospheric Re-entry, SPB-208, DA 04-1724, June 16, 2004.

⁸ If University of Miami re-files an application identical to the one dismissed, with the exception of supplying the missing information, it need not pay an application fee. *See* 47 C.F.R. § 1.1109(d).