



Federal Communications Commission  
Washington, D.C. 20554

DA 05-2925

November 04, 2005

Ms. Kathy L Hough  
Vyvx, LLC  
One Technology Center  
Tulsa, OK 74103

Re: Call Sign: E000358  
File No.: SES-MOD-20051020-01431

Dear Ms. Hough:

On October 20, 2005, Vyvx, LLC (Vyvx) filed the above-captioned application to add a 4.5 meter antenna to Earth Station Call Sign E000358 operating in the Fixed Satellite Service (FSS) using the 10.95-11.2, 11.45-12.2, and 14.0-14.5 GHz bands. Pursuant to Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. §25.112(a)(1), we dismiss this application as defective.

Specifically, Vyvx indicates in Form 312 Schedule B of the application that the only Points of Communication for the proposed antenna are ALSAT-designated satellites. Only those fixed-satellite service earth stations that are two-degree compliant and that operate in the 3700-4200 MHz, 5925-6425 MHz, 11.7-12.2 GHz, or 14.0-14.5 GHz bands can request ALSAT as a point of communication. Because Vyvx's proposed operation are also in the 10.95-11.2 and 11.45-11.7 GHz bands, Vyvx's application must specify the specific satellite or satellites with which the proposed FSS earth station seeks to communicate in these bands.<sup>1</sup> Since Vyvx did not provide this information, we are dismissing this application as defective.

Moreover, because Vyvx responded yes to question 28 of the 312 Main Form, which asks whether a Commission grant of any proposal in this application would have a significant environmental impact as defined by 47 C.F.R. §1.1307, its application should also include an Environmental Assessment, as required by Sections 1.1308 and 1.1311 of the Commission's rules, 47 C.F.R. §§ 1.1308 and 1.1311.

Furthermore, the current authorization for this earth station indicates that the regulatory classification is Common Carrier. Vyvx indicates in the 312 Main Form that service using the new antenna will be on a non-Common Carrier basis (question 21). However, in describing the modification in question 43 of the main form, Vyvx indicates that the status is "Common Carrier

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<sup>1</sup> Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Services in the United States, First Order on Reconsideration, IB Docket No. 96-111, 15 FCC Rcd 7207, 7214-16 (paras. 16-20).

ad-hoc and/or full time analog, digital, video and/or data.” As such, we are unclear as whether this service will be provided non-common carrier or on a common carrier basis.

Accordingly, pursuant to Section 25.112(a)(1) of the Commission’s rules, 47 C.F.R. §25.112(a)(1), and Section 0.261 of the Commission’s rules on delegations of authority, 47 C.F.R. §0.261, we dismiss this application as defective without prejudice to refiling.<sup>2</sup>

Sincerely,

Scott A. Kotler  
Chief, Systems Analysis Branch  
Satellite Division  
International Bureau

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<sup>2</sup> If Vyx refiles 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).