

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

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| In the Matter of |) | |
| |) | File Nos. SAT-LOA-19951109-00185 |
| LORAL SKYNET CORPORATION |) | SAT-LOA-19951109-00186 |
| |) | SAT-AMD-19950929-00157 |
| Authorization to Construct, Launch |) | SAT-AMD-19950929-00158 |
| And Operate a Ka-band Satellite System in the |) | SAT-AMD-19971222-00216 |
| Fixed-Satellite Service |) | SAT-AMD-19971222-00204 |
| |) | SAT-MOD-20000104-00053 |
| |) | SAT-MOD-20000104-00054 |
| |) | Call Signs: S2218, S2219, S2383, and S2384 |
| |) | |
| Authorization to Construct, Launch |) | |
| And Operate a Ku-band Space Station in the |) | File No. SAT-LOA-19950215-00022 |
| Domestic Fixed Satellite Service |) | |
| |) | Call Sign: S2161 |
| |) | |

ORDER

Adopted: April 10, 2006

Released: April 10, 2006

By the Chief, International Bureau:

I. INTRODUCTION

1. In this Order, we declare null and void Loral Skynet Corporation’s (Loral’s)¹ authorizations to launch and operate one geostationary-satellite orbit (GSO) Ku-band satellite and four GSO Ka-band² satellites for failure to meet its milestone requirements. Loral’s failure to make progress in constructing these satellites in the years since grant -- in the case of the Ku-band satellite, nine years since grant -- represents an abdication of its licenses and renders the authorizations null and void by their own terms. Accordingly, the 135° W.L. orbit location and the associated 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands that had been assigned to Loral in the Ku-band are available for reassignment. The 139° W.L., 67° W.L., 126.5° E.L. and 15° W.L. orbital locations and associated 18.3-18.8, 19.7-20.2, 28.35-28.6, and 29.25-30.0 GHz frequency bands that had been assigned to Loral in the Ka-band are also available for reassignment.

¹ The Ka-band licenses were originally granted to Loral CyberStar, Inc. and the Ku-band license was originally granted to Orion Network Systems, Inc. Through a series of transfers, Loral Skynet Corporation now holds the licensees. See Applications of Loral Space & Communications Ltd. (DIP) for the Transfer of Control of Licenses and Authorizations Held by Loral Orion, Inc. (DIP), Loral SpaceCom Corporation (DIP) and Loral Skynet Network Services, Inc. (DIP) to Loral Space & Communications Inc., IB Docket No. 05-233, *Public Notice*, DA 05-2639 (rel. Sept. 30, 2005). For the ease of reference, we refer to the licensee as Loral throughout the document.

² The Ka-band consists of the 18.3-18.8 GHz, 19.7-20.2 GHz, 28.35-28.6 GHz, and 29.25-30.0 GHz frequency bands. The “conventional” Ku-band consists of 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands.

II. BACKGROUND

2. *Ku-band Satellite.* On November 21, 1996, the Commission authorized Loral to construct, launch, and operate the Orion F4 Ku-band satellite (Call Sign: S2161) at the 135° W.L. orbital location. The satellite was authorized to provide Fixed-Satellite Service (FSS) in the 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands.³ The authorization established the following milestone requirements: (1) construction commenced by March 30, 1997; (2) construction completed by March 30, 1999; and (3) launch and operation by June 30, 1999. Under the terms of the grant, unless extended by the Commission for good cause shown, the Orion F4 authorization would become null and void in the event the space station was not constructed, launched, and successfully placed into operation in accordance with the technical parameters, terms, and conditions of the authorization by the milestone dates. Loral never filed a request to extend the satellite's milestones and failed to meet any of the milestones.

3. *Ka-band Satellites.* In December 2000, the Commission granted Loral authority to construct, launch, and operate the Orion F11 satellite (Call Sign: S2383) at the 67° W.L. orbital location and the Orion F12 satellite (Call Sign: S2384) at 126.5° E.L. orbit location.⁴ The satellites were authorized to provide FSS in the 18.3-18.8, 19.7-20.2, 28.35-28.6, and 29.25-30.0 GHz frequency bands. The authorization established the following milestone dates: (1) construction commenced by December 2001 for both satellites and (2) launch and operation by June 25, 2005 for Orion F11 and by July 23, 2005 for Orion F12.⁵ Under the terms of the grant, unless extended by the Commission for good cause shown, the Orion F11 authorization and the Orion F12 authorization would, respectively, become null and void in the event the space stations were not constructed, launched, and successfully placed into operation in accordance with the technical parameters, terms, and conditions of the authorization by the milestone dates.

4. On August 2, 2001, the Commission authorized Loral to launch and operate two additional Ka-band satellites -- Orion F5 (Call Sign: S2218) at the 147° W.L. orbital location and the Orion F10 satellite (Call Sign: S2219) at the 15° W.L. orbital location.⁶ The satellites were authorized to provide FSS in the 18.3-18.8, 19.7-20.2, 28.35-28.6, and 29.25-30.0 GHz frequency bands. The Commission established the following milestones for these satellites: (1) construction commenced by August 2002 for the Orion F10 satellite at the 15° W.L. orbital location and by August 2003 for the Orion F5 satellite at the 147° W.L. orbital location, and (2) "bring into use" by June 2005 for Orion F10 and by July 2005 for Orion F5.⁷ Under the terms of the grant, unless extended by the Commission for good cause shown, the Orion F5 authorization and the Orion F10 authorization would, respectively, become null and void in the

³ See Applications of Orion Networks Systems, *Memorandum Opinion and Order*, DA 96-1938, 11 FCC Rcd 20434 (1996); Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service, *Order and Authorizations*, DA 96-713, 11 FCC Rcd. 13,788 (May 7, 1996).

⁴ See Loral CyberStar, Inc., *Order and Authorization*, 15 FCC Rcd 24602 (Int'l Bur. 2000).

⁵ On January 4, 2000, Loral requested an extension of its milestone requirements for these satellites. The International Bureau denied the request, finding that the circumstances cited by Loral did not warrant an extension. Loral did not appeal that decision. See Loral Space & Communications Corp., *Order*, 16 FCC Rcd 11044 (Int'l Bur. 2001).

⁶ See Loral CyberStar, Inc., *Order and Authorization*, 16 FCC Rcd 14346 (Int'l Bur. 2001). Although Loral was initially assigned the 147° W.L. orbital location for its Orion F5 satellite, it was subsequently assigned the 139° W.L. orbital location in 2002. See Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space Station in the Ka-band, *Order*, 17 FCC Rcd 14400 (Sat. Div. 2002).

⁷ The Commission did not issue milestone dates in the normal manner pursuant to Section 25.145 (f) of the Commission rules since those dates would have occurred after the International Telecommunications Union's date for the satellites being "brought into use" at those locations. Instead, the Commission used the ITU's "brought into use" date as the milestone to protect those orbital locations. See Loral CyberStar, Inc., 16 FCC Rcd at 14352.

event the space stations was not constructed, launched, and successfully placed into operation in accordance with the technical parameters, terms, and conditions of the authorization by the milestone dates.

5. In 2002 and 2003, the Commission determined that Loral met the first milestone for Orion F5, Orion F11, and Orion F12 by entering into satellite manufacturing contracts.⁸ On September 22, 2004, the Bureau requested that Loral provide a copy of a construction contract and verification of construction progress with respect to Orion F10.⁹ In response, Loral stated that, in light of the circumstances that led to and necessitated its Chapter 11 reorganization filing, it has not been able to proceed with construction of Orion F10.¹⁰

III. DISCUSSION

6. The Commission has required satellite licensees to adhere to system implementation milestone schedules for more than two decades.¹¹ Milestone schedules ensure that licensees are proceeding with construction and will launch their satellites in a timely manner, and that the orbit spectrum resource is not being held by licensees unable or unwilling to proceed with their plans.¹² Warehousing this resource could hinder the availability of services to the public by blocking entry by other entities willing and able to proceed immediately with the construction and launch of their satellite systems.¹³

7. *Ku-band Authorization.* Nothing in the record indicates that Loral has ever made any progress on the construction of its Orion F4 satellite nor has it sought extension of the milestone requirements for this satellite. Consequently, Loral's authorization for the 135° W.L. orbital location is null and void. This location and the associated 11.7-12.2 GHz and 14.0-14.5 GHz frequency bands are available to other potential applicants.

⁸ See Public Notice Report No. SPB-179, DA 02-1432, 17 FCC Rcd 11271 (June 18, 2002) (announcing that Loral had met its first milestones for its proposed Ka-band satellites at 126.5° E.L. and 67° W.L.). See also Public Notice No. SPB-194, DA 03-3426 (announcing that Loral had met its first milestone for its Ka-band satellite at 139° E.L.).

⁹ Letter from Thomas Tycz, Chief, Satellite Division, FCC to John P. Stern, Counsel for Loral Space & Communications Ltd. (September 22, 2004).

¹⁰ Letter from John P. Stern, Counsel for Loral Space & Communications Ltd. to Fern Jarmulnek, Deputy Chief, Satellite Division, International Bureau, FCC (October 15, 2004).

¹¹ See, e.g., Inquiry into the Development of Regulatory Policy in Regard to Direct Broadcast Satellites, *Report and Order*, 90 F.C.C.2d 676, 719 (para. 114) (1982) (adopting rule requiring DBS licensees to "begin construction or complete contracting for construction" of satellites within one year after receiving construction permits), and MCI Communications Corp., *Memorandum Opinion and Order*, 2 FCC Rcd 233, 233 (para. 5) (Com. Car. Bur. 1987) (*MCI Order*) (noting that a milestone schedule is included in each domestic space station authorization issued by the Commission); see also Norris Satellite Communications, Inc., *Memorandum Opinion and Order*, 12 FCC Rcd 22299 (1997) (*Norris Review Order*); Morning Star Satellite Company, L.L.C., *Memorandum Opinion and Order*, 15 FCC Rcd 11350 (Int'l Bur. 2000), *aff'd*, 16 FCC Rcd 11550 (2001) (*Morning Star Reconsideration Order*).

¹² See, e.g., Advanced Communications Corporation, *Memorandum Opinion and Order*, 10 FCC Rcd 13337, 13338 (para. 4) (Int'l Bur. 1995) (*Advanced Order*), *aff'd*, 11 FCC Rcd 3399 (1995) (*Advanced Review Order*), *aff'd*, *Advanced Communications Corporation v. FCC*, 84 F.3d 1452 (D.C. Cir. 1996) (unpublished order available at 1996 WL 250460); National Exchange Satellite, Inc., *Memorandum Opinion and Order*, 7 FCC Rcd 1990 (Com. Car. Bur. 1992) (*Nexsat Order*); AMSC Subsidiary Corp., *Memorandum Opinion and Order*, 8 FCC Rcd 4040, 4042 (para. 13) (1993) (*AMSC Order*); Motorola, Inc. and Teledesic LLC, *Memorandum Opinion and Order*, 17 FCC Rcd 16543 (Int'l Bur. 2002) (*Motorola/Teledesic Order*).

¹³ *Space Station Licensing Reform Order*, 18 FCC Rcd at 10827 (para. 173), citing *PanAmSat Ka-Band License Revocation Review Order*, 16 FCC Rcd at 11537-38 (para. 12), citing *Nexsat Order*, 7 FCC Rcd at 1991 (para. 8); *MCI Order*, 2 FCC Rcd at 233 (para. 5); *First Columbia Milestone Order*, 15 FCC Rcd at 15571 (para. 11).

8. *Ka-band Authorizations.* While Loral met the first milestone for Orion F5, Orion F11, and Orion F12, it did not meet any subsequent milestones nor did it request extensions of any of the milestones.¹⁴ Further, Loral did not submit a construction contract for Orion F10 in response to the Bureau's September 2004 request to do so. Rather, Loral submitted a letter in which it acknowledged that it has not been able to proceed with construction of this satellite.¹⁵ Consequently, Loral's Ka-band authorizations for the 139° W.L., 67° W.L., 15° W.L., and 126.5° E.L. orbital locations are null and void. These locations and the associated 18.3-18.8, 19.7-20.2, 28.35-28.6, and 29.25-30.0 GHz frequency bands are available to other potential applicants.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that Loral's authorization for a Ku-band satellite at the 135° W.L. orbital location is DECLARED NULL and VOID and the 135° W.L. orbital location and associated 11.7-12.2 GHz and 14.0-14.5 GHz frequencies originally assigned to Loral are available for reassignment to potential applicants.

10. IT IS FURTHER ORDERED that Loral's authorizations to construct, launch and operate Ka-band satellites at the 15° W.L., 139° W.L., 67° W.L., and 126.5° E.L. orbital locations are DECLARED NULL and VOID and the 135° W.L., 139° W.L., 67° W.L., and 126.5° E.L. orbital locations and the associated 18.3-18.8, 19.7-20.2, 28.35-28.6, and 29.25-30.0 GHz frequency bands originally assigned to Loral are available for reassignment to potential applicants.

11. This Order is issued pursuant to delegated authority, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief
International Bureau

¹⁴ See Public Notice Report No. SPB-179, DA 02-1432, 17 FCC Rcd 11271 (June 18, 2002) (announcing that Loral had met its first milestones for its proposed Ka-band satellites at 126.5° E.L. and 67° W.L.). See also Public Notice No. SPB-194, DA 03-3426 (announcing that Loral had met its first milestone for its Ka-band satellite at 139° E.L.).

¹⁵ Letter from John P. Stern, Counsel for Loral Space & Communications Ltd. to Fern Jarmulnek, Deputy Chief, Satellite Division, International Bureau, FCC (October 15, 2004).