



Federal Communications Commission
Washington, D.C. 20554

DA 11-1021

June 8, 2011

John K. Hane, Esq.
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Washington, D.C. 20037

Re: New Skies Satellites, B.V., Petition for Declaratory Ruling for Inclusion of SES-4 at 22.0° W.L. on the Commission's Permitted Space Station List; for Authority to Serve the U.S. Market Using the Extended C-band and Ku-band Capacity on SES-4; and for Authority to Provide U.S. Direct-to-Home Services from SES-4, IBFS File No. SAT-PPL-20110331-00066 (Call Sign S2825)

Dear Mr. Hane:

On April 31, 2011, New Skies Satellites, B.V. (New Skies) filed the above-captioned petition: (1) to add the SES-4 space station to the Permitted Space Station List (Permitted List) to provide Fixed-Satellite Service (FSS) to, from and within the United States from the 22.0° W.L. orbital location;¹ (2) for market access to use the extended C-band and Ku-band capacity on SES-4 to provide international FSS and limited tracking, telemetry and command (TT&C) operations; and, (3) for market access to provide direct-to-home (DTH) FSS within the United States and between the United States and certain other countries. For the reasons discussed below, we dismiss the application as defective, without prejudice to re-filing.

Section 25.112 of the Commission's rules, 47 C.F.R. § 25.112, requires the Commission to return, as unacceptable for filing, any space station application that is not substantially complete, contains internal inconsistencies, or does not substantially comply with the Commission's rules. New Skies' application is missing information concerning the post-mission orbital debris mitigation plan for the SES-4 space station, which is required by Section 25.114(d)(14)(iv) of the Commission's rules.²

New Skies states that it will dispose of SES-4 at end of life by boosting it to an orbit 200 km above GSO (perigee), "consistent with [its] obligations in its license issued under the Netherlands' Space Activities Act," which, according to New Skies, requires it to make sure that at the end of life of SES-4, adequate fuel supply is onboard to transport the space object to a de-commissioning orbit or de-commissioning zone. It further states that although its license does not specify such a zone, the Explanatory Memorandum to the Netherlands' Space Activities Act refers to a "de-commissioning zone" of "around 200 km higher than geostationary orbit."³ New Skies states that this information would satisfy the FCC's post-mission disposal requirements "by showing that the space station system's debris mitigation plans are subject to direct and effective regulatory oversight by the space station system's national licensing authority."⁴

¹ The Commission's Permitted Space Station List comprises all satellites with which United States earth stations, with "routinely" authorized technical parameters and operating in the conventional C- or Ku-bands, are permitted to communicate, without additional Commission action.

² See 47 C.F.R. § 25.114(d)(14)(iv) (requiring, among other things, that the statement detailing the post-mission disposal plans for a station at end of life "must disclose the altitude selected for a post-mission disposal orbit and the calculations that are used in deriving the disposal altitude."

³ New Skies Petition, Technical Appendix at 122-23.

⁴ *Id.*, quoting from *Mitigation of Orbital Debris*, Second Report and Order, IB Docket No. 02-54, 19 FCC Rcd 11567, 11606, ¶95 (2004) (*Orbital Debris Second Report and Order*).

In 2004, the Commission concluded that the public interest is served by requiring entities that request a Commission ruling for access to a non-U.S.-licensed space station to serve the U.S. market to submit the same information concerning orbital debris mitigation plans of the non-U.S.-licensed space station as that submitted by U.S.-licensed space stations.⁵ The Commission found that some consideration of whether a space station serving the United States will employ reasonable debris mitigation measures is appropriate, regardless of the licensing Administration, in order to ensure that the space station communications activity that the Commission authorizes does not involve substantial safety concerns or activities that may be detrimental to space operations.⁶ Regarding the nature of the proposed debris mitigation showing by non-U.S.-licensed space stations, the Commission concluded that the disclosure requirement can be satisfied by showing that the space station system's debris mitigation plans are subject to direct and effective regulatory oversight by the space station system's national licensing authority.⁷ One method of making this showing is to submit an English-language version of the debris mitigation rules or regulations of the national licensing authority and to indicate the current status of the national licensing authority's review of its debris mitigation plans.⁸

New Skies has not provided the debris mitigation guidelines of the Netherlands' Space Activities Act, nor has it provided the current status of the Netherlands' review of the specific debris mitigation plans for the SES-4 space station. In order to determine whether communications with the SES-4 space station is in the public interest, New Skies must provide an English-language version of the Netherlands' Space Activities Act and the Explanatory Memorandum to the Act. In addition, New Skies must state whether the licensing administration for SES-4 has reviewed and affirmatively approved the specific debris mitigation plans for the SES-4 space station set forth in New Skies' application. We would expect that any such showing would indicate whether the Netherlands' review addresses only post-mission disposal, or whether it includes other debris mitigation criteria. Alternatively, New Skies may provide the specific information required by Section 25.114(d)(14)(i)-(iv) of the Commission's rules, including the calculations concerning disposal orbit specified under Section 25.283(a).⁹

We would also request that New Skies clarify whether the 200 kilometer perigee described in its application is an initial post-disposal perigee or whether it takes into account gravitational perturbations and solar radiation pressure that will alter the satellite orbit in the years after de-commissioning. To the extent such factors have been assessed and will be accounted for in the initial post-disposal perigee, please specify the method used. To the extent New Skies views the Netherlands authorization as permitting an initial disposal perigee at 200 kilometers, i.e., less than the initial perigee recommended under the IADC Debris Mitigation Guidelines and required under FCC rules, we would appreciate it if this view were supported by a statement from an appropriate government official.

⁵ *Orbital Debris Second Report and Order*, 19 FCC Rcd at 11605-6, ¶93.

⁶ *See id.*

⁷ *Id.* at 11606, ¶95.

⁸ *Id.*

⁹ 47 C.F.R. § 25.283(a). New Skies may also wish to consult the Public Notice released by the International Bureau regarding information that is to be supplied in connection with the Commission's orbital debris mitigation rules. *See* Public Notice, Disclosure of Orbital Debris Mitigation Plans, Including Amendment of Pending Applications, 20 FCC Rcd 16278, DA 05-2698 (Int'l Bur. Sat. Div. rel. Oct. 13, 2005).

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 the petition of New Skies Satellites, B.V. without prejudice to refiling.

Sincerely,

Robert G. Nelson
Chief, Satellite Division
International Bureau