



PUBLIC NOTICE

Federal Communications Commission
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DA 11-1555
September 15, 2011

**NEW DBSD SATELLITE SERVICE G.P., Debtor-in-Possession, and TERRESTAR
LICENSEE INC., Debtor-in-Possession, REQUEST FOR RULE WAIVERS AND
MODIFIED ANCILLARY TERRESTRIAL COMPONENT AUTHORITY**

IB Docket No. 11-149

PLEADING CYCLE ESTABLISHED

Petitions to Deny Due: October 17, 2011

Oppositions Due: October 27, 2011

Replies Due: November 3, 2011

I. INTRODUCTION

On August 22, 2011, New DBSD Satellite Services G.P., Debtor-in-Possession (New DBSD DIP), and TerreStar Licensee Inc., Debtor-in-Possession (TSL DIP), filed applications seeking rule waivers and license modification in connection with the ancillary terrestrial component (ATC) authorized in their respective licenses.¹

Both New DBSD DIP and TSL DIP request modification of their ATC authorizations to allow provision of services to users equipped with single-mode, terrestrial-only terminals. In connection with that request, both seek a waiver of the provision in Section 25.149(b)(4) of the Commission's rules that requires ATC operators to provide ATC as a component of an integrated service offering including Mobile-Satellite Service (MSS). Both applicants argue that consumers should be provided a choice as to whether to purchase dual-mode terminals, and note the unnecessary expense to consumers desiring only terrestrially-provided service. Both applicants also request waiver of Section 25.149(b)(2)(ii), which requires ATC operators to maintain a spare MSS satellite on the ground. Both rely on the availability of back-up service from the other's in-orbit satellite.

¹ New DBSD DIP's request is assigned International Bureau Filing System (IBFS) File No. SES-MOD-20110822-00985, associated with call sign E070272. TSL DIP's request is assigned IBFS File No. SES-MOD-20110822-00983, associated with call sign E060430.

In addition, TSL DIP requests waivers of the following Commission rule technical requirements:

- Sections 25.252(a)(1)-(3) (base station Effective Isotropic Radiated Power (EIRP) limits);²
- Section 25.252(a)(5) (limits on base station power flux density (pfd) in the vicinity of airports);³
- Section 25.252(a)(8) (base station antenna gain limits and overhead suppression requirements);⁴
- Section 25.252(b)(2) (limits on mobile terminal out of channel emissions at the edge of each licensee's assignment);⁵
- Section 25.252(c)(2) (mobile terminal required signal attenuation for bands adjacent to 2000-2020 MHz); and,⁶
- Section 25.252(c)(4) (method for measuring mobile terminal out-of band emissions).⁷

New DBSD DIP also seeks clarification of the method for measuring base station emissions in Section 25.252(a)(1) of the Commission's rules.⁸

II. RELATED MATTERS

Concurrently with the filing of New DBSD DIP and TSL DIP's license modification applications, both applicants sought approval of proposed transfers of control of their licenses to DISH Network Corporation. Those requests are the subject of a separate docket file, established by a Public Notice issued concurrently with the issuance of this Public Notice.

TSL DIP's request for waiver of ATC technical rules includes a number of requests that are identical to waiver requests first made in an application filed July 27, 2010.⁹ For administrative reasons, we are dismissing that application by separate but concurrent action, and will consider and address the substance of those requests in this Docket.

² 47 C.F.R. 25.252(a)(1)-(3).

³ 47 C.F.R. 25.252(a)(5).

⁴ 47 C.F.R. 25.252(a)(8).

⁵ 47 C.F.R. 25.252(b)(2).

⁶ 47 C.F.R. 25.252(c)(2).

⁷ 47 C.F.R. 25.252(c)(4).

⁸ 47 C.F.R. 25.252(a)(1).

⁹ IBFS File No. SES-MOD-20100727-00963.

III. EX PARTE STATUS OF THIS PROCEEDING

This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

IV. GENERAL INFORMATION

This Application has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective or not in conformance with the Commission’s rules or policies. Final action on this Application will not be taken earlier than thirty-one (31) days following the date of this Public Notice.¹¹

Interested parties must file petitions to deny or comments no later than **October 17, 2011**. Responses or oppositions to comments and petitions must be filed no later than **October 27, 2011**. Replies to such pleadings must be filed no later than **November 3, 2011**. All filings concerning matters referenced in this Public Notice should refer to **DA 11-1555, IB Docket No. 11-149**, as well as the specific file numbers of the individual applications or other matters to which the filings pertain.

Under the Commission’s procedures for the submission of filings and other documents,¹² submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery to the Commission’s Massachusetts Avenue location.

¹⁰ 47 C.F.R. §§ 1.1200 *et seq.*

¹¹ *See* 47 U.S.C. § 309(b).

¹² *See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings*, Order, 16 FCC Rcd 21483 (2001); *see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for*

- Electronic Filers:¹³ Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties also may submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com or (202) 488-5563 (facsimile).

Additionally, filers may deliver courtesy copies by email or facsimile to the following Commission staff:

General Correspondence, Public Notice, DA 01-2919, 16 FCC Rcd 22165 (2001); *Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media*, Public Notice, DA 03-2730, 18 FCC Rcd 16705 (2003).

¹³ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- (1) William Bell, Satellite Division, International Bureau, at William.Bell@fcc.gov or (202) 418-0748 (facsimile);
- (2) Sankar Persaud, Satellite Division, International Bureau, at Sankar.Persaud@fcc.gov or (202) 418-0748 (facsimile);
- (3) Jeremy Marcus, Broadband Division, Wireless Telecommunications Bureau, at Jeremy.Marcus@fcc.gov or (202) 418-1567 (facsimile); and,
- (4) Ronald Repasi, Office of the Chief Engineer, Office of Engineering and Technology, at Ronald.Repasi@fcc.gov or (202) 418-1944 (facsimile).

Copies of the Applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The Applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The Applications also are available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>.

People with Disabilities: To request this Public Notice in accessible formats (computer diskette, large print, audio recording, and Braille) send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Sankar Persaud, Satellite Division, International Bureau, at 202-418-2441.