

September 6, 2013

DA 13-1862

Daniel C.H. Mah
New Skies Satellites B.V.
1129 20th Street N.W., Suite 1000
Washington, D.C. 20036

Re: IBFS File No. SAT-MPL-20130528-00078
Call Sign S2591

Dear Mr. Mah:

On May 28, 2013, New Skies Satellites B.V. (New Skies) filed an application seeking to modify the grant of U.S. market access for its Netherlands-licensed NSS-806 space station to reflect the relocation of NSS-806 from the 40.5° W.L. orbital location to the 47.5° W.L. orbital location and to allow NSS-806 to provide Fixed-Satellite Service (FSS), including Direct-to-Home (DTH) services from the 47.5° W.L. orbital location using various C- and Ku-band frequencies. We dismiss the application, 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 or other requirements. We find that New Skies' application is internally inconsistent for the reasons provided below.

- The narrative provided as part of New Skies' application states that NSS-806 will provide FSS in the 6425-6650 MHz band,¹ but the Schedule S submitted with the application states that NSS-806 will operate in the 6490-6650 MHz band.²

- In the narrative to the application, as well as in item S3f of the Schedule S attached to the application, New Skies lists the inclination excursion and east-west stationkeeping of NSS-806 as 0.1 degrees.³ Elsewhere in the application, however, New Skies indicates that NSS-806 "will be maintained in geosynchronous orbit at the 47.5° W.L. orbital location with a maximum N-S drift of $\pm 0.05^\circ$ and a maximum E-W drift of ± 0.05 ."⁴

These inconsistencies render New Skies' application unacceptable for filing. 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 application without prejudice to re-filing.

¹ See IBFS File No. SAT-MOD-20130513-00068, Narrative at 1, n.2.

² *Id.* at Schedule S, item S2a-c.

³ *Id.*, Narrative at 5, 6 and Schedule S, item S3d-f.

⁴ *Id.* at Technical Appendix at 6 (Satellite Orbit Characteristics).

Additionally, although not a ground for dismissal, we note that New Skies' request to provide non-WTO covered DTH services refers to its existing grant of market access for NSS-806 at the 40.5° W.L. orbital location to provide DTH services in the conventional C- and Ku-bands "within the United States and between the United States and the Netherlands and other European Union member states, Mexico, Brazil, the Netherlands Antilles, Guatemala, Honduras, Nicaragua, Bermuda, the British Virgin Islands, and the Cayman Islands." See SAT-MPL-20110923-00187, granted June 28, 2012. New Skies does not explicitly state that the route market countries that NSS-806 will serve at the 47.5° W.L. orbital location are the same as those that were served by NSS-806 at the 40.5° W.L. orbital location. As part of any re-filing, New Skies must confirm whether the route markets to be served by NSS-806 at the 47.5° W.L. orbital location in the 3600-4200 MHz and 11.75-11.95 GHz (space-to-Earth) frequency bands are the same as those that were served by NSS-806 at the 40.5° W.L. orbital location. If additional markets are requested, New Skies must provide information necessary to satisfy the Effective Competitive Opportunities-Satellite (ECO-Sat) test for these additional markets.⁵

Sincerely,

Jose Albuquerque
Chief, Satellite Division
International Bureau

cc: Karis A. Hastings
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⁵ See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24136-37, ¶¶ 98-99 (1997) ("DISCO II Order").