



Federal Communications Commission  
Washington, D.C. 20554

March 25, 2016

**DA 16-320**

Mr. Sydney White  
DLA Piper  
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Call Sign: E080209  
File No.: SES-MOD-20151103-00813

Dear Mr. White:

On November 3, 2015, DataPath, Inc. (DataPath) filed the above-captioned application to modify its current Temporary-Fixed Satellite earth station license to add four new transportable antennas to operate with the Permitted List satellites in the 11.70-12.20 GHz (space-to-Earth) and 14.00-14.50 GHz (Earth-to-space) frequency bands. Pursuant to Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. § 25.112(a)(1), we dismiss the application, without prejudice to re-filing.<sup>1</sup>

Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. § 25.112(a)(1), requires the Commission to return, as unacceptable for filing, any earth station application that is not substantially complete, contains internal inconsistencies, or does not substantially comply with the Commission's rules. For the reason set forth below, we find DataPath's application is deficient and subject to dismissal.

DataPath's response to Question 15 in Schedule B of its application indicates that Antenna ID QCT90 does not comply with the performance standards outlined in Sections 25.209(a) and (b) of the Commission's rules, 47 C.F.R. § 25.209. Section 25.209(f) requires that an earth station with an antenna not conforming to relevant standards in Sections 209(a) and (b) will be authorized only if the applicant demonstrates under Section 25.218(b) that the antenna will not cause unacceptable interference.<sup>2</sup> As required by Section 25.115(h), the demonstration must include three tables showing the off-axis EIRP level of the proposed earth station antenna of the plane of the geostationary orbit, the elevation plane, and towards the horizon.<sup>3</sup> In each table, the EIRP level must be provided at increments of 0.1° for angles between 0° and 10° off-axis, and

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<sup>1</sup> If DataPath, Inc. refiles an application in which the deficiencies identified in this letter have been corrected but is otherwise identical to the one dismissed, it need not pay an application fee. *See* 47 C.F.R. § 1.1111(d).

<sup>2</sup> *See* 47 C.F.R. § 25.209(f)

<sup>3</sup> *See* 47 C.F.R. § 25.115(h).

at increments of 5° for angles between 10° and 180° off-axis. DataPath's application did not include such a showing.<sup>4</sup>

As DataPath seeks to resolve this issue, please consider that earth station applicants may reference a previously approved application that provided the required showing or cite to a particular non-routine earth station antenna listed on the FCC's List of Approved Non-Routine Earth Station Antennas at <http://transition.fcc.gov/ib/sd/nresa/> if DataPath seeks to offer the same kinds of services with the same or substantially similar operating conditions as another previously authorized antenna.

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, 47 C.F.R. § 0.261, we dismiss this application without prejudice to re-filing.

Sincerely,

Paul E. Blais  
Chief, Systems Analysis Branch  
Satellite Division  
International Bureau

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<sup>4</sup> DataPath must also meet the requirements of Section 218(b) to be eligible for routine processing for operation with the Permitted List satellites. See 47 C.F.R. § 25.115(k)(1) and 47 C.F.R. § 25.218(b).