



Federal Communications Commission
Washington, D.C. 20554

March 25, 2016

DA 16-321

Mr. Bob Dunn
TelAlaska Cellular, Inc.
201 E. 56th Avenue
Anchorage, AK 99518
administration@telalaska.com

Call Sign: E160018
File No.: SES-LIC-20160121-00081

Dear Mr. Dunn:

On January 21, 2016, TelAlaska Cellular, Inc. (TelAlaska Cellular) filed the above-captioned application for a license to operate a 4.5 meter antenna fixed earth station in Teller, Alaska with the Permitted List satellites in the 5925-6425 GHz (Earth-to-space) and 3700-4200 GHz (space-to-Earth) frequency bands. Pursuant to Section 25.112(a)(2) of the Commission's rules, 47 C.F.R. § 25.112(a)(2), we dismiss the application as defective without prejudice to refile.¹

Section 25.112(a) of the Commission's rules, 47 C.F.R. § 25.112(a), 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. TelAlaska Cellular's application does not comply with the Commission's rules, as outlined below.

Section 25.205(a) of the Commission's rules, 47 C.F.R. § 25.205(a), states that earth station antennas shall not normally be authorized for transmission at angles less than 5° measured from the horizontal plane to the direction of maximum radiation. Nonetheless, an antenna may be authorized between 3° and 5° in the relevant directions in two cases: (1) upon a showing by the applicant that the transmission path will be seaward and away from land masses; or (2) upon a special showing by the applicant of a need for such angles. In this case, TelAlaska Cellular, however, has applied for an even lower antenna elevation angle, in the Eastern Limit of 2.1° degrees, which is below the threshold contemplated by this rule.²

In addition, Section 25.115(k)(1) of the Commission's rules, 47 C.F.R. § 25.115(k)(1),

¹ If TelAlaska Cellular 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).

² *See* Item E57 of the applicant's Schedule B to Form 312. Should TelAlaska choose to resubmit this application with an antenna angle elevation below 3°, it must request a waiver of Section 25.205(a), and provide the requisite waiver analyses. The Commission may waive its rules for good cause. 47 CFR § 1.3. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and the deviation will serve the public interest. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

requires that earth station applications requesting authority to operate with the Permitted List satellites must qualify for routine processing. An application requesting an antenna elevation angle of less than 5° does not qualify for routine processing. Therefore, if TelAlaska Cellular re-files an application for authority to communicate with satellites at an antenna elevation angle of less than 5°, TelAlaska Cellular must list on Schedule B the specific satellite(s) with which it will communicate.

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 TelAlaska Cellular application without prejudice to re-filing.

Sincerely,

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