

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)		
	)		
<b>Loral SpaceCom Corp.</b>	)	File No.	58-SAT-LA-97
	)		
	)		
Application for Special Temporary	)		
Authority to Launch Telstar 5	)		

**ORDER**

Adopted: May 23, 1997

Released: May 23, 1997

By the Chief, Satellite and Radiocommunication Division, International Bureau:

1. Loral SpaceCom Corp. requests special temporary authority ("STA") to launch, test, and operate Telstar 5 at 97° W.L. National Public Radio, Inc. ("NPR") opposed this request due to interference concerns. NPR requests that we deny Loral's STA application or, in the alternative, place certain conditions on it. For the reasons discussed below, Loral SpaceCom Corp's request is granted.

2. On April 11, 1997, Loral filed an application seeking authority to launch and operate Telstar 5 at 97° W.L. as an emergency replacement for Telstar 401, which had suffered a catastrophic failure on January 11, 1997.<sup>1</sup> NPR filed a petition and supplement to deny this application on May 13, 1997 and May 15, 1997, respectively. In the alternative, it requested specific conditions be applied to any authorization. On May 20, 1997, Loral filed an opposition and PanAmSat Corporation also submitted comments.<sup>2</sup>

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<sup>1</sup> Loral actually requested authority to launch and operate its ground spare, Telstar 7, however, that satellite is to be renamed Telstar 5.

<sup>2</sup> PanAmSat Corporation (formerly known as Magellan International, Inc.) is the licensee and operator of Galaxy IV(H), located at 99° W.L. on which NPR has purchased capacity.

3. The launch of Telstar 5 is scheduled for May 24, 1997, and operation planned for July 1, 1997, or immediately following in-orbit testing and checkout. Loral notes that since comments on the underlying application were due May 20, 1997, the Commission might not have time to fully review them prior to the scheduled launch. Therefore, it filed the STA request. It asserts that authorization is necessary to meet the needs of those customers previously on Telstar 401, that are now relying on less convenient, less appropriate, and less efficient arrangements. Those customers include broadcast networks and distance learning and educational program providers. A grant, it insists, will promote the Commission's goal to provide continuity of service to both satellite operators and their customers. Finally, Loral states that a postponement of the scheduled launch would cost it millions of dollars, with no assurance that it would be able to secure another launch date in the near future.

4. NPR, Inc., in opposing Loral's STA request, first asserts that Loral has failed to demonstrate "extraordinary circumstances" required by Section 25.120 of our rules. It notes that the catastrophic failure of Telstar 401 occurred over four months prior to the filing of this request and five days prior to the scheduled launch. It insists that applicants must file their applications "sufficiently in advance of the planned service date" to allow time to process.<sup>3</sup> Second, NPR argues that "temporary arrangements that are less convenient, appropriate and efficient" do not meet the threshold of Section 25.120(b) of our rules. In fact, it contends that Loral has provided no evidence that its customers would be measurably harmed by a delay in the Telstar 5 launch. Third, NPR asserts that grant of this STA would cause an already unacceptable level of adjacent-satellite interference to the public radio satellite interconnection system ("PRSS"), which it operates. It contends that since Telstar 5 will use 20 watt C-band transponders instead of the 12 watt transponders used by Telstar 401, unacceptable adjacent satellite interference to the PRSS would increase. Specifically, it asserts that 25 percent of one transponder and 40 percent of PRSS's two other transponders on Galaxy IV would be unusable. In the alternative, NPR suggests that the Commission condition this STA on the assignment of only low spectral density traffic to C-band transponders 1-4 of Telstar 5 and frequency-use coordination of Telstar 5's C-band transponders 1-4 with the Galaxy IV satellite.

5. In Loral's response to NPR's opposition, filed on May 22, 1997, it asserts that its customers are enduring insufficient capacity and unacceptable interference under the current temporary arrangements. It also insists that NPR must be able to tolerate a two degree spacing environment. Furthermore, it notes that the present loading plan is for non-interfering digital traffic on the transponders opposite NPR's. Moreover, it will continue to coordinate to address NPR's interference concerns. It maintains that its unequivocal commitment to coordinate and Commission coordination requirements, constitute a reasonable

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<sup>3</sup> See *Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communications Services*, 6 FCC Rcd 2806, 2810 (1991) (discussion of STA policy, primarily in connection with earth station processing).

assurance that NPR's concerns will be addressed. Additionally, Loral argues that a brief delay in launch, suggested by NPR, is unrealistic given that launch manifests are scheduled years in advance and there are no assurances of rescheduling in the near future. Finally, Loral states that it should not have to be placed in a worse position regarding its coordination responsibilities than it would be if Telstar 401 were still operating.

6. It is undisputed that the catastrophic failure of Telstar 401 caused substantial disruption to a wide range of services. Commission policy strongly favors continuity of service, and prompt reestablishment of service where capacity is lost due to unanticipated equipment failures. We believe the current circumstances are amply sufficient to meet the requirement of our rules that STAs should be based on extraordinary circumstances. Our action is without prejudice to any action we may deem appropriate in connection with Loral's separate application for regular replacement authority. We do not believe, however, that the public interest would be served by any delays in the launch of this satellite, with its 24 C-band transponders, because of interference concerns regarding five of those transponders. We also note that Loral anticipates that the satellite will not commence operations prior to July 1, 1997. In the interim, coordination among the affected parties may resolve this issue.<sup>4</sup>

7. In this regard, the parties are specifically reminded that each must bear a burden in addressing coordination concerns. Therefore, consistent with the coordination obligations of each of these parties, we anticipate that there will be reasonable and good faith efforts from each of the parties to address coordination issues, prior to further invocation of Commission processes.<sup>5</sup>

8. Accordingly, IT IS ORDERED that special temporary authority IS GRANTED to Loral SpaceCom Inc., to launch, test, and operate the Telstar 5 satellite at 97° W.L.

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<sup>4</sup> PanAmSat has indicated that it is not aware of any issues that would prevent a successful coordination of Telstar 5, assuming the good faith cooperation of all affected parties, and that it has and will continue to work with Loral to complete coordination. See "Comments of PanAmSat" filed May 20, 1997, concerning NPR's petition to deny.

<sup>5</sup> See, e.g., *Licensing of Space Station in the Domestic Fixed-Satellite Service and Related Revisions of Part 25 of the Rules and Regulations*, 54 RR 2d 577, 585 (1983); *Hughes Communications Galaxy, Inc.*, 7 FCC Rcd 4672, 4673 (1992); *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service*, 94 FCC 2d 129, 130 (1983).

9. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, and is effective on release.

FEDERAL COMMUNICATIONS COMMISSION

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