

Federal Communications Commission

DA 98-1057

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

In the Matter of)	
Assignment of Orbital Locations)	
to Space Stations in the Domestic)	
Fixed-Satellite Service)	
In the matter of the Applications of)	
AT&T CORP.	)	File Nos. 48-DSS-LA-94
	)	62-SAT-AMEND-95
ECHOSTAR SATELLITE CORPORATION	)	63/64/65-SAT-P/LA-95
	)	36-DSS-LA-94
	)	37-DSS-P/LA-94
GE AMERICAN COMMUNICATIONS, INC.	)	154-SAT-AMEND-95
	)	69/70/71-SAT-P/LA-95
	)	19-DSS-P/LA-94
HUGHES COMMUNICATIONS GALAXY, INC.)	)	31-SAT-AMEND-95
	)	5-DSS-P/LA-95
	)	67-SAT-AMEND-95
	)	68-SAT-P/LA-95
	)	12-SAT-MISC-96
LORAL SPACE AND COMMUNICATIONS, LTD.	)	72/73-SAT-P/LA-95
	)	137-SAT-P-95
	)	100/101-SAT-AMEND-96
ORION NETWORK SYSTEMS, INC.	)	74-SAT-P/LA-95
and)	
In the Matter of the Application of)	
GE AMERICAN COMMUNICATIONS, INC.	)	40-SAT-MP/ML-97
Request for Extension of Construction)	
and Launch Milestones for GE-3)	

MEMORANDUM OPINION AND ORDER

Adopted: June 5, 1998

Released: June 5, 1998

By the Chief, International Bureau:

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INTRODUCTION

1. By this Order, we grant in part the petition for reconsideration of the *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service* ("1996 Assignment Order")¹ filed by GE American Communications, Inc. ("GE Americom")² by reassigning the GE-3 satellite from 67° W.L. to the 81° W.L. orbital location.³ We also grant GE Americom's separate request for extending the implementation of milestones for GE-3, to the extent indicated below.

BACKGROUND

2. In May 1996, we authorized six applicants to construct, launch, and operate eleven C-band and/or Ku-band domestic fixed-satellites ("domsats") and assigned them to specific orbit locations.⁴ Included in that order was the authorization and assignment of GE Americom's GE-3 hybrid C-/Ku-band satellite to the 67° W.L. orbital location.⁵ GE Americom filed a petition for reconsideration of the *1996 Assignment Order* requesting, among other things, a different orbit location for GE-3. GE Americom proposed an alternative orbit assignment plan that reassigned GE-3 to 129° W.L. and involved multiple reassignments of other satellites as well.⁶ AT&T Corp., EchoStar Satellite Corporation, Hughes Communications Galaxy, Inc., and Loral Space & Communications, Ltd. filed

¹ *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service*, 11 F.C.C. Rcd. 13788 (1996) ("1996 Assignment Order").

² See GE Americom Petitions for Reconsideration, File numbers 48-DSS-LA-94, 62-SAT-AMEND-95, 63/64/65-SAT-P/LA-95, 36-DSS-LA-94, 37-DSS-P/LA-94, 154-SAT-AMEND-95, 69/70/71-SAT-P/LA-95, 5-DSS-P/LA-95, 67-SAT-AMEND-95, 68-SAT-P/LA-95, 72/73-SAT-P/LA-95, 137-SAT-P-95, 74-SAT-P/LA-95 (filed December 23, 1996) ("Petition for Reconsideration").

³ The satellite identified here as GE-3 was authorized for service at the 67° W.L. orbital location in May 1996. See *1996 Assignment Order*. Subsequently, GE Americom renamed its GE-4 spacecraft (authorized for service at 87° W.L.) GE-3 to maintain its numbering sequence. The GE-3 spacecraft we refer to in this order has not officially been assigned a new name by GE Americom. This Order, however, will continue to refer to the satellite licensed at 67° W.L. as GE-3.

⁴ See *1996 Assignment Order*. In November 1996, we issued the opinions for these satellite authorizations. See *AT&T Corp.*, 11 F.C.C. Rcd. 15038 (1996); *EchoStar Satellite Corporation*, 11 F.C.C. Rcd. 20446 (1996); *GE American Communications, Inc.*, 11 F.C.C. Rcd. 15030 (1996) ("*1996 GE Americom Opinion*"); *Hughes Communications Galaxy, Inc.*, 11 F.C.C. Rcd. 116425 (1996); *Loral Space & Communications, Ltd.*, 11 F.C.C. Rcd. 20441 (1996); and *Orion Network Systems, Inc.*, 11 F.C.C. Rcd. 20434 (1996) ("*1996 Domsat Opinions*"). For purposes of this opinion, the C-band encompasses the 3700-4200/5925-6425 MHz frequency bands and the Ku-band encompasses the 11.7-12.2/14-14.5 GHz bands.

⁵ We assigned GE-3 to this location in the eastern portion of the orbital arc based on GE Americom's representation that it would serve, in part, as replacement for Satcom Ku-2, currently located at 81° W.L.

⁶ See GE Americom Petition for Reconsideration at Exhibit A.

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oppositions. GE Americom later filed a request to extend the milestone requirements for GE-3 in light of its pending petition for reconsideration. No oppositions to this request were filed.

DISCUSSION

A. Reassignment of GE-3

3. In adopting the *1996 Assignment Plan*, as with prior domsat processing round authorizations, we allowed satellite licensees to request reassignment.⁷ Specifically, the *1996 Assignment Order* states that "we will entertain requests for changes in the orbital assignments made today if they are consistent with the basic structure of our assignment plan and are agreed by all, or at least most, of the satellite operators affected by the change. . . . Satellite operators may apply for reassignment to all locations that remain available after today's order. . . . Any alternative orbital arrangement, including requests for any unassigned orbital locations, may be presented to the Commission for approval within 30 days"⁸

4. GE Americom filed a timely request for reassignment of its GE-3 satellite. Specifically, GE Americom requests that we reassign GE-3 to 129° W.L., which was assigned to another licensee in the *1996 Assignment Order*. To accommodate GE-3 at 129° W.L., GE Americom proposes an alternative orbit assignment plan that would require every satellite operator licensed in the processing round to relocate at least one of its newly assigned satellites. In light of the objections of the affected licensees, we will not authorize a wholesale revision of our orbital assignment plan. Nor will we authorize any smaller scale revisions simply to accommodate GE-3 at 129° W.L. without the agreement of all affected licensees. Nevertheless, we recognize GE Americom's dissatisfaction with its assignment to 67° W.L. As stated in the *1996 Assignment Order*, we attempt to accommodate a licensee's request for reassignment when doing so does not affect other licensees.

5. The 81° W.L. orbit location is unassigned and available immediately for a hybrid C-/Ku-band satellite. We will reassign GE-3 from 67° W.L. to 81° W.L. This action will also permit the Commission to resolve, in an expeditious manner, coordination issues that have arisen with respect to the *Simón Bolívar* Andean satellite system, which is also assigned to 67° W.L. by the Andean countries.⁹ Accordingly, and in light of GE Americom's desire for an alternative orbit assignment and the availability of another hybrid orbit location from which it can serve the United States, reassignment to the unassigned 81° W.L. orbit location will serve the public interest. We defer action on the remaining issues raised in GE Americom's petition for reconsideration.

⁷ See *1996 Assignment Order* at ¶ 11.

⁸ *Id.*

⁹ The *Simón Bolívar* Andean satellite system is owned by a consortium of 44 companies from the Andean Community of Nations. It is represented by the countries of Bolivia, Columbia, Ecuador, Peru, and Venezuela. See letter from Veronica Pastor, Wilkinson, Barker, Knauer & Quinn, LLP, Counsel for *Simón Bolívar*, to Tom Tycz, Chief, Satellite and Radiocommunication Division, International Bureau (April 13, 1998).

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B. Request for Milestone Extension

6. GE Americom also requests an extension of its construction, launch, and operation milestones for GE-3 in light of its petition for reconsideration.¹⁰ Specifically, it would like three years following the resolution of its petition for reconsideration to construct and launch GE-3.¹¹ It asserts that it cannot reasonably proceed with system implementation while issues concerning its request for an alternative orbit location remain unresolved.

7. A petition for reconsideration does not justify delaying milestone requirements.¹² Otherwise, licensees might file petitions for reconsideration simply to suspend milestones requirements and, thereby, "warehouse" orbital locations. Even if we accept GE Americom's assertion of uncertainty regarding its ultimate orbit assignment, it would still be able to begin the construction process by entering into a contract with a spacecraft manufacturer and order long lead-time parts and services, among other things. Nevertheless, in the interest of fairness, we will allow GE Americom 60 days from the release of this Order to enter into a construction contract, if it has not done so already. GE Americom's request for an additional three years to construct and launch GE-3 following the resolution of its petition for reconsideration, however, is excessive, and it fails to justify the need for this length of time. Thus, we extend GE Americom's milestone schedule as set forth in paragraph 10. This timetable corresponds to the amount of time granted to satisfy milestones in the *1996 GE Americom Opinion*. We remind GE Americom that failure to meet these implementation milestones will render its license for GE-3 null and void.

C. Interference Issues

8. We recognize in assigning GE-3 to the 81° W.L. orbit location, the satellite will be two degrees away from EchoStar Satellite Corporation's EchoStar 1 satellite located at 83° W.L. GE Americom and EchoStar are currently involved in a coordination dispute involving GE-5 at 85° W.L. and EchoStar 1 at 83° W.L. Nevertheless, we continue to believe that GE Americom and EchoStar should be able to reach coordination agreements involving EchoStar 1 and the adjacent GE Americom

¹⁰ See GE Americom Communications, Inc., Request for Extension of Construction and Launch Milestones for GE-3, File No. 40-SAT-MP/ML-97 (filed January 30, 1997).

¹¹ GE Americom requests that we adopt the following revised construction and launch schedule, to commence after the issues in its Petition for Reconsideration regarding the appropriate orbital assignment for GE-3 is resolved: Construction Commenced: 90 days after reconsideration is completed; Construction Completed: 30 months after construction commencement; Launch: 33 months after construction commencement.

¹² See, e.g., letter from James R. Keegan, Chief, Domestic Facilities Division, Common Carrier Bureau, to Henry Goldberg, Goldberg & Spector, regarding National Exchange Satellite, Inc.'s ("NEXSAT") Spotnet 1 and Spotnet 2 Domestic Fixed -Satellites (June 7, 1990) (a request for orbit reassignment is not alone an excuse for failing to meet construction milestones). See also *National Exchange Satellite, Inc.*, 3 F.C.C. Rcd. 6992 (1988) ("Authorization Order").

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satellites.¹³ We encourage and prefer satellite operators to resolve coordination difficulties, since they can best weigh the technical and economic tradeoffs involved in a coordination.¹⁴ If the parties, after good faith efforts, cannot resolve their differences, the Commission will dictate a solution. Because it appears that both the EchoStar and GE Americom satellites will not be operating within the Commission's two degree spacing parameters, a Commission-imposed resolution will likely involve technical constraints on both parties.

ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that the GE American Communications, Inc. Petition for Reconsideration, *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service*, 11 F.C.C. Rcd. 13788 (1996), IS GRANTED IN PART and *Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service*, 11 F.C.C. Rcd. 13788 (1996), IS MODIFIED to reassign GE American Communications, Inc.'s authorization for the GE-3 satellite from the 67° W.L. orbit location to the 81° W.L. orbit location.

10. IT IS FURTHER ORDERED, that GE American Communications, Inc.'s, Request for Extension of Construction and Launch Milestones, File No. 40-SAT-MP/ML-97, IS GRANTED to the extent set forth below, and the schedule for implementation of the GE-3 satellite specified in paragraph 20 in *GE American Communications, Inc.*, 11 F.C.C. Rcd. 15030 (1996) IS MODIFIED as follows:

	Construction Commenced	Construction Completed	Launch
GE-3	August 5, 1998	April 31, 2000	July 31, 2000

11. IT IS FURTHER ORDERED that GE American Communications, Inc., shall prepare, within 90 days of the release of this order, any further information required to be submitted to the International Telecommunication Union. No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments of other Administrations.

12. IT IS FURTHER ORDERED that the assignment of any orbital location to GE American Communications, Inc. is subject to change by summary order of the Commission on 30 days notice and does not confer any permanent right to use the orbit and spectrum. Neither this authorization, nor any right granted by this authorization, shall be transferred to any person except upon application to the Commission and upon a finding by the Commission that the public interest, convenience, and necessity will be served thereby.

¹³ See AT&T Corp., 5 F.C.C. Rcd. 5590, 5591 (1990) ("We expect domestic satellite operators to resolve potential interference problems.").

¹⁴ See, e.g., *GE American Communications, Inc.*, 3 F.C.C. Rcd. 6871 (1988).

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13. GE American Communications, Inc., is afforded thirty days from the date of release of this order to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization.

14. 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 upon release.

FEDERAL COMMUNICATIONS COMMISSION

Regina M. Keeney
Chief, International Bureau