

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's Space Station Licensing Rules and Policies)	IB Docket No. 02-34
)	
2000 Biennial Regulatory Review – Streamlining and Other Revisions of Part 25 of the Commission's Rules)	IB Docket No. 00-248
)	
)	

**REPLY OF
HUGHES NETWORK SYSTEMS, INC.**

Hughes Network Systems, Inc. (“HNS”) hereby files this Reply regarding its own Petition for Reconsideration and Clarification¹ of the Commission’s *Order* in this proceeding,² and to the Opposition filed by Intelsat against the Petition for Reconsideration filed by a coalition of eight leading satellite companies.³ The HNS Petition is unopposed and indeed seeks only non-controversial refinements of certain procedural aspects of the Commission’s new first-come licensing scheme. The Coalition Petition was opposed only by one commenter, Intelsat, which found no success in its attempt to find any statutory authority for the Commission’s new

¹ Petition for Reconsideration and Clarification of Hughes Network Systems, IB Dkt No. 02-34 (filed Sept. 26, 2003) (the “HNS Petition”).

² *Amendment of the Commission’s Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, IB Dkt No. 02-34, FCC 03-102 (rel. May 19, 2003) (the “*Order*”).

³ Petition for Reconsideration and Comments of the Boeing Corporation, Hughes Network Systems, Inc., Iridium Satellite LLC, Lockheed Martin Corporation, Loral Space & Communications Ltd., Mobile Satellite Ventures, LP, Panamsat Corporation, and SES Americom, Inc., IB Dkt No. 02-34 (filed Sept. 26, 2003) (the “Coalition Petition”).

requirement that licensees post a \$5 million bond, and forfeit that amount upon failure to meet certain license conditions. The Commission should grant both the HNS and the Coalition Petitions.

I. THE COMMISSION SHOULD GRANT THE UNOPPOSED HNS PETITION.

In its Petition, HNS requested that the Commission clarify certain aspects of the operation of the new first come, first served (“FCFS”) application processing “queue.” Specifically, HNS sought clarification of that minor modification applications would not be placed in the FCFS queue, while applications that request a change in orbital location or frequency band would be placed within the queue.⁴ Moreover, HNS sought clarification that the Commission would not apply its first-come licensing procedures to “block” a non-US applicant with higher ITU priority than a US applicant, by requiring the non-US applicant to wait behind the US applicant in the queue.⁵

HNS also asked the Commission to reconsider or clarify certain aspects of the *Order* that would apply some of the new “anti-speculation” rules to U.S.-licensed systems intended primarily for transoceanic or non-U.S. communications---specifically those U.S.-licensed systems to be located at orbital locations outside the range of 60° W.L. to 140° W.L. (“Non-U.S. Orbital Slots”). That is, HNS urged that the Commission not to apply its performance bond, its “five slot limitation,” or its new policy of awarding “black marks” for failing to implement a licensed system, to requests for Non-U.S. Orbital Slots.⁶

These points were, and remain, unopposed. HNS produced ample reason to grants these points of clarification and reconsideration, and no contrary evidence or reason exists

⁴ HNS Petition at 2-3.

⁵ HNS Petition at 3-6.

⁶ HNS Petition at 7-9.

in the administrative record. The Commission should accordingly grant the HNS Petition in its entirety.

II. THE COMMISSION SHOULD GRANT THE COALITION PETITION.

HNS was also one of eight major satellite industry participants that petitioned for reconsideration of the Commission’s new \$5 to \$7 million penalty for failure to meet a milestone.⁷ Virtually the entire satellite industry is aligned against the requirement, including those companies, “who would be the most harmed by speculation in satellite applications or licenses.”⁸ Only Intelsat supports the bond requirement – no surprise given its strong market position. Intelsat has large numbers of existing satellites that likely will be exempt from any bond requirement under the “replacement” satellite rules and proposals. Intelsat has no objection to a requirement that will chill innovation, increase barriers to entry and raise the costs of its rivals. While such a requirement may be in the *private* interest of a single large incumbent, the Coalition Petition and the comments of various other parties demonstrate that this requirement is not in the *public* interest.

The focus of Intelsat’s Opposition is a defense of the Commission’s putative authority to implement the bond requirement. Intelsat claims that the bond requirement is “necessary” under Section 4(i) of the Act, as a concomitant to the “primary directive” of a first-come licensing scheme that finds its own support in the charge that the Commission issue licenses in “public interest” under Section 309(a).⁹ HNS has joined in another pleading that is being filed contemporaneously with this one, which demonstrates that the bond requirement finds no support under Section 4(i) or any other provision of the Act.

⁷ See generally Coalition Petition.

⁸ Comments of Space Imaging LLC at 4.

⁹ Intelsat Opposition at 3.

* * *

For these reasons the Commission should grant both the HNS Petition and the Coalition Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, William S. Carnell, hereby certify that the attached Reply was served via First Class U.S. Mail, postage prepaid, on this the 19th day of November, 2003, on the following:

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