

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FILE

February 7, 2006

OFFICE OF
MANAGING DIRECTOR

Susan H. Crandall, Esq.
Assistant General Counsel
Intelsat Global Service Corporation
3400 International Drive, N.W.
Washington, D.C. 20008-3006

Re: Intelsat LLC
FY 2004 Regulatory Fee
Fee Control No. 0408188835735001

Dear Ms. Crandall:

This is in response to your request dated September 22, 2005 (*Letter*), filed on behalf of Intelsat LLC for a refund of the fiscal year (FY) 2004 regulatory fee associated with INTELSAT 601, a geostationary satellite operating in the Fixed Satellite Service at 64.25° E.L. orbital location. You request a refund of \$114,675.00.¹ For the reasons stated herein, your request is denied.

You recite that on August 17, 2004, Intelsat LLC filed its annual regulatory fees for various space station and earth station licenses and international bearer circuits. You state that “[t]he portion of Intelsat LLC’s FY 2004 regulatory fee payment relating to space station licenses was based, per the FCC’s rules, on operational satellites as of October 1, 2003.”² You explain that “[b]ecause INTELSAT 601 was operational on that date (at the 64.25° E.L. orbital location), Intelsat LLC paid the FY 2004 space station regulatory fee of \$114,675.00 for the satellite.”³ You state that in preparing to pay FY 2005 regulatory fees, Intelsat LLC was advised by Commission staff that no regulatory fee was due for INTELSAT 601 because it was co-located with INTELSAT 906.⁴ In support, you cite “Regulatory Fees Fact Sheet, What You Owe – International and Satellite Services Licensees for FY 2005” (July 2005) (*2004 Regulatory Fees Fact*

¹ You state that on June 2, 2005, pursuant to FCC approval, Intelsat LLC assigned the license for INTELSAT 601, Call Sign S2392, to its affiliated company, Intelsat North America. *Letter* at n.1. You cite Letter from Susan H. Crandall, Intelsat, to Marlene H. Dortch, FCC (June 2, 2005) and *Public Notice*, Policy Branch Information, Actions Taken, Report No. SAT-00294 (May 27, 2005) (granting File Nos.: SAT-ASG-20050418-00084, SAT-ASG-20050418-00085).

² *Letter* at 1.

³ *Id.*

⁴ *Id.* at 2.

Sheet).⁵ You state that INTELSAT 601 was co-located with INTELSAT 906 on October 1, 2003, “the relevant date for FY 2004 purposes[.]”⁶ You therefore assert that “[f]or the same reason that a FY 2005 regulatory fee was not due for [INTELSAT 601],” a refund is warranted for the FY 2004 regulatory fee paid in connection with that satellite.⁷ In a subsequent communication, you state that INTELSAT 906 and INTELSAT 601 “are technically identical in that they have the same frequency bands and possible coverage areas” and that Intelsat paid a FY 2004 regulatory fee for both satellites.⁸

Section 1.1156(2) of the Commission’s rules, 47 C.F.R. §1.1156(2) (2004), provides that the FY 2004 regulatory fee for each “Space Station[] (Geostationary Orbit),” such as the type of station at issue here, is \$114,675.00. The *FY 2004 Regulatory Fees Fact Sheet* provides that “[m]ultiple technically identical geostationary satellites co-located at the same orbital location will be considered one station for the purpose of per-space station regulatory fee calculation.”⁹ We find that while INTELSAT 906 and INTELSAT 601 are co-located at the same orbital location, the two geostationary satellites are not technically identical within the meaning of the *FY 2004 Regulatory Fees Fact Sheet* for purposes of calculating the FY 2004 regulatory fee. Specifically, the two spacecraft are of different design: the INTELSAT 601 has an Intelsat 6 design, whereas the INTELSAT 906 has an Intelsat 9 design. More particularly, although the two designs cover the same frequency bands, they have different transponder plans, with the Intelsat 6 having a total of 38 C-band and 8 Ku-band transponders and the Intelsat 9 having 44 C-band and 16 Ku-band transponders. In addition, the effective isotropic radiated power for the Intelsat 9 spacecraft is higher than that for the Intelsat 6 spacecraft. To the extent that Commission staff may have provided Intelsat with incorrect advice regarding the calculation of the regulatory fee for the two satellites with respect to Intelsat’s FY 2005 fee obligations, this does not provide a basis for refund of Intelsat’s FY 2004 fees. Moreover, it is well established that where a party has received erroneous staff information, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly where relief is contrary to an applicable requirement.¹⁰ We therefore deny your request for a refund of the FY 2004 regulatory fee associated with INTELSAT 601.

⁵ *Id.* at n.3.

⁶ *Id.* at 2.

⁷ *Id.*

⁸ Email from Susan Crandall to Joanne Wall, Office of General Counsel, FCC (Oct. 7, 2005); *see also Letter* at 1. Our records confirm that Intelsat paid a FY 2004 regulatory fee of \$114,675.00 for each of the two satellites.

⁹ *2004 Regulatory Fees Fact Sheet* at 2.

¹⁰ *See Mary Ann Salvatoriello*, 6 FCC Rcd 4705, 4707-8, para. 22 (1991) (citing *Office of Personnel Management v. Richmond*, 497 U.S. 1046 (1990)); *see also Texas Media Group, Inc.*, 5 FCC Rcd 2851, 2852 (1990) (one relies on informal staff advice at his own

If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

risk), *aff'd sub nom. Malkan FM Associates v. FCC*, 935 F.2d 1313 (D.C.Cir. 1991). We also note that the cited staff advice referred only to the co-location of the stations and not to whether they are technically indetical.

040818883573500/C

00000R06-05-069

RECEIVED FCC



2005 SEP 23 P 3:17

Handwritten signature and initials: 3659, 6084

September 22, 2005

FINANCIAL SERVICES

RECEIVED - FCC

Office of the Managing Director
Attn: Regulatory Fee Refund Request
Federal Communications Commission
445 12th Street, S.W.
Room 1-A625
Washington, D.C. 20554

SEP 22 2005

Federal Communication Commission
Bureau / Office

Re: Intelsat LLC Request for Partial Refund of FY 2004
Regulatory Fees

Dear Office of the Managing Director:

Pursuant to Section 1.1160(a)(1) of the Commission's rules, 47 C.F.R. 1.1160(a)(1), Intelsat LLC, former licensee of INTELSAT 601,¹ a geostationary satellite operating in the Fixed Satellite Service at 64.25° E.L., respectfully requests a refund of \$114,675.00, which constitutes the amount that it inadvertently overpaid in FY 2004 space station regulatory fees.

On August 17, 2004, Intelsat LLC filed its annual regulatory fees for various space station and earth station licenses it held, as well as for international bearer circuits.² The portion of Intelsat LLC's FY 2004 regulatory fee payment relating to space station licenses was based, per the FCC's rules, on operational satellites as of October 1, 2003. Because INTELSAT 601 was operational on that date (at the 64.25° E.L. orbital location), Intelsat LLC paid the FY 2004 space station regulatory fee of \$114,675.00 for the satellite.

¹ On June 2, 2005, pursuant to FCC approval, Intelsat LLC assigned the license for INTELSAT 601 (Call Sign S2392) to its affiliated company, Intelsat North America LLC. See Letter from Susan H. Crandall, Intelsat, to Marlene H. Dortch, FCC (June 2, 2005). See also Policy Branch Information, Actions Taken, Report No. SAT-00294 (May 27, 2005) (Public Notice) (granting File Nos.: SAT-ASG-20050418-00084, SAT-ASG-20050418-00085).

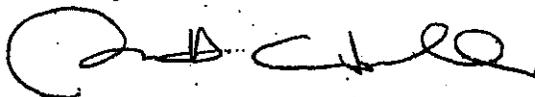
² A redacted copy of the relevant page of the regulatory fee filing is attached hereto as Exhibit A. On August 18, 2004, Intelsat LLC filed revised Form 159s, reflecting that the licensee for the IA-5, IA-6 and IA-7 satellites was Intelsat North America LLC rather than Intelsat LLC. A redacted copy of the relevant page of the revised Form 159 is attached hereto as Exhibit B.

When Intelsat, Ltd. -- on behalf its affiliated licensee entities Intelsat LLC and Intelsat North America LLC -- recently prepared to pay its FY 2005 regulatory fees, it learned through e-mail correspondence with the Commission staff that no FY 2005 regulatory fee was due for INTELSAT 601. The reason provided by the staff was that the satellite was co-located with INTELSAT 906.³ Intelsat, Ltd. therefore did not pay a FY 2005 regulatory fee for INTELSAT 601.

For the same reason that a FY 2005 regulatory fee was not due for the satellite, however, Intelsat LLC should not have paid a FY 2004 regulatory fee. On October 1, 2003 -- the relevant date for FY 2004 purposes -- INTELSAT 601 was located at 64.25° E.L. and was co-located with INTELSAT 906, just as it currently is. Had Intelsat LLC known that a regulatory fee was not due for this co-located satellite, it would not have paid \$114,675.00 in FY 2004 regulatory fees for INTELSAT 601.

Accordingly, Intelsat LLC respectfully requests a refund of \$114,675.00, which constitutes the amount it inadvertently paid in FY 2004 regulatory fees for INTELSAT 601. Please direct any questions regarding this request to the undersigned.

Sincerely,



Susan H. Crandall
Assistant General Counsel
Intelsat Global Service Corporation

Attachments

Cc: Jacki Ponti

³ See Regulatory Fees Fact Sheet; What You Owe - International and Satellite Services Licensees for FY 2005 (July 2005) at 2 ("Multiple technically identical geostationary satellites co-located at the same orbital location will be considered one station for the purpose of per-space station regulatory fee calculation.").