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Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***EX PARTE* PRESENTATION**
Request for Clarification
IB Docket No. 06-123

Dear Ms. Dortch:

Pegasus Development DBS Corporation ("Pegasus") hereby requests that the Commission clarify that an applicant, which submits an initial amendment application, proposing to operate a satellite at an offset Appendix F orbital location, short-spaced with a proposed satellite offset from an adjacent Appendix F location, will be permitted to submit a second amendment, either to operate at full-power at the applicable Appendix F location or to remain at the offset location at reduced power and with reduced interference protection. The Commission's failure to identify the specific right of such an applicant to submit a second amendment appears to be an oversight and could discourage applicants from seeking offset orbital locations, defeating the very purpose of the Commission's *Order on Reconsideration* in the above-referenced proceeding. *See In the Matter of the Establishment of Policies and Service Rules for Broadcasting-Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, FCC 07-174, at ¶¶ 33-37 (September 28, 2007) ("*Order on Reconsideration*"). Accordingly, Pegasus requests that the Commission address this request for clarification prior to the release of

the public notice announcing the filing window for acceptance of amendments to currently pending 17/24 GHz applications.

In the *Order on Reconsideration*, the Commission modified its application processing rules to permit an applicant, which submits an initial amendment application proposing to operate at an offset Appendix F location, short-spaced with a proposed satellite at an adjacent Appendix F location,[1] the opportunity to amend its application further, and either operate at the Appendix F location from which the satellite was proposed to be offset or remain at the offset location at reduced power and with reduced interference protection. *Id*. at ¶ 34. Based on a discussion with International Bureau staff, Pegasus believes that the Commission also intended to allow an applicant, which submits an initial amendment application proposing to operate a satellite at an offset location, short-spaced with a proposed satellite offset from an adjacent Appendix F location,[2] to submit a second amendment, and either operate at full-power at the applicable Appendix F location or to remain at the offset location at reduced power and with reduced interference protection.

The *Order on Reconsideration* does not specifically permit such applicants to submit a second amendment and, indeed, arguably appears to prohibit such an amendment. *See id*. at ¶ 36 ("Any applicant proposing a full-power offset space station that conflicts with an application for an adjacent Appendix F space station will have [an opportunity to amend] . . . No other applicants will be permitted to file second amendments."). However, given the goal of the *Order on Reconsideration*, to provide applicants additional flexibility to operate at offset locations, this omission appears to be an oversight. Because clarification of this matter would eliminate uncertainty regarding the Commission's processing rules for current applicants and serve the goal of the *Order*

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[1] For example, this situation would arise if two first-round applicants submitted initial amendments to operate satellites at 100ºW (offset from 99ºW) and 103ºW, respectively. In such a case, the Commission's rules permit the offset applicant to submit a second amendment either to operate at the Appendix F location (99ºW) at full power or to remain at the proposed offset location (100ºW) at reduced power and with reduced interference protection.

[2] For example, this situation would arise if two first-round applicants submitted initial amendments to operate satellites at 100ºW (offset from 99ºW) and 102ºW (offset from 103ºW), respectively. In such a case, each applicant should be permitted to submit a second amendment either to operate at the respective Appendix F location (99ºW or 103ºW, respectively) at full power or to remain at the proposed offset location (100ºW or 102ºW, respectively) at reduced power and with reduced interference protection.

on Reconsideration, Pegasus respectfully requests that the Commission act on this request for clarification prior to the announcement of the initial filing window.

Very truly yours,

/s/

Bruce D. Jacobs
Tony Lin
Counsel for Pegasus Development DBS Corporation

cc: Fern Jarmulnek
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