

# JONES DAY

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March 18, 2014

## VIA ELECTRONIC FILING

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

**Re: Permitted Oral *Ex Parte* Notice  
IB Docket No. 12-376**

Dear Ms. Dortch:

On February 13, 2014, representatives of The Boeing Company (“Boeing”) met with staff of the International Bureau to respond to their questions regarding Boeing’s petition for reconsideration<sup>1</sup> of the Commission’s Report and Order in the above referenced proceeding.<sup>2</sup> Participating in the meeting on behalf of Boeing were Audrey Allison, Director, Frequency Management Services; Alan Rinker, Regulatory Policy and International Spectrum Management; and the undersigned. Participating in the meeting on behalf of the International Bureau were James Ball, Chief of the Policy Division; Howard Griboff, Deputy Chief; Byung Yi, Assistant Chief, Engineering; and Jennifer Balatan, legal counsel.

During the meeting, the Boeing representatives reaffirmed the points that were made in Boeing’s petition for reconsideration. Specifically, Boeing noted that the definition of Earth Stations Aboard Aircraft (“ESAA”) contained in Section 25.201 of the Commission’s rules should be supplemented to include earth stations operating on U.S. registered aircraft regardless of whether such aircraft are operating within the United States.

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<sup>1</sup> Petition of The Boeing Company for Reconsideration and Clarification, IB Docket No. 12-376 (filed Jan. 28, 2013) (“Petition”).

<sup>2</sup> *Revisions to Parts 2 and 25 of the Commission’s Rules to Govern the Use of Earth Stations Aboard Aircraft Communicating with Fixed-Satellite Service Geostationary-Orbit Space Stations Operating in the 10.95-11.2 GHz, 11.45-11.7 GHz, 11.7-12.2 GHz and 14.0-14.5 GHz Frequency Bands, IB Docket No. 12-376, Service Rules and Procedures to Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in Frequency Bands Allocated to the Fixed Satellite Service, IB Docket No. 05-20, Notice of Proposed Rulemaking and Report and Order, FCC 12-161 (rel. Dec. 28, 2012).*

Marlene H. Dortch  
March 18, 2014  
Page 2

The Boeing representatives also explained that new Section 25.227(b)(3)(i) of the Commission's rules should be revised to more closely reflect the language of new Section 25.227(a)(3)(ii)(B) of the rules with respect to the monitoring and shutdown requirements for individual ESAA terminals on aircraft. Such terminals should be able to monitor their own compliance with the power density limits for ESAA networks and be able to respond to directions from the network control center regarding the aggregate compliance of the network with the power density limits. Individual terminals, however, cannot monitor the aggregate compliance of the network, a function that can only be done on a network-wide basis.

Section 25.227(b)(3)(i) should also be amended to remove the reference to "100 milliseconds" with respect to the capability of an ESAA network to automatically cease emissions if the aggregate off-axis power density limits are exceeded. As it currently exists, the rule is potentially confusing regarding the actual event that initiates the 100 millisecond period. In contrast, the text of the Order provides clear guidance, indicating that a network control center must *issue* a command to cease operations within 100 milliseconds.<sup>3</sup>

The meeting participants also discussed the requirement in Section 25.227(b)(1)(iii)(A) that, as part of an ESAA applicant's engineering analysis, the applicant must show that its antenna pointing error is "within three sigma ( $\sigma$ ) from the mean value."<sup>4</sup> Boeing recommended in its petition that language from the text of the Order clarifying this requirement also be included in the text of the rule in the form of a parenthetical stating, "(i.e., that the antenna maintains a pointing error within 0.2 degrees for 99.7 percent of the time)."<sup>5</sup>

Finally, the Boeing representatives expressed the importance of addressing its petition for reconsideration in the same Commission decision that addresses the currently pending Notice of Proposed Rulemaking in the above referenced proceeding. The regulatory designation of ESAA as a primary application of the fixed satellite service is long overdue and the Commission's prompt attention to this issue will help to bring formal structure and reliability to the Commission's rules for this growing and important satellite industry market segment.

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<sup>3</sup> See *id.*, ¶ 82.

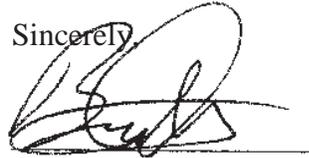
<sup>4</sup> 47 C.F.R. § 25.227(b)(1)(iii)(A).

<sup>5</sup> *Id.*, ¶ 65.

Marlene H. Dortch  
March 18, 2014  
Page 3

Thank you for your attention to this matter. Please contact the undersigned if you have any questions.

Sincerely

A handwritten signature in black ink, appearing to read "Bruce A. Olcott", written over a horizontal line.

Bruce A. Olcott  
Counsel to The Boeing Company