



Federal Communications Commission
Washington, D.C. 20554

DA 08-1919

August 15, 2008

Ms. Jennifer Hindin, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

Re: Call Sign: E080168
File No. SES-LIC-20080714-00933

Dear Ms. Hindin:

On July 14, 2008, Sirius XM Radio Inc. (Sirius XM Radio) filed the above-captioned application to operate a fixed earth station in Ellenwood, GA in portions of the S-Band,¹ C-Band,² and X-Band.³ The proposed earth station will provide TT&C and feeder link services for its non-geostationary orbit satellites⁴ as well as its proposed Sirius FM-5 geostationary orbit satellite at 96° W.L. For the reason discussed below we dismiss, without prejudice to refile, the portion of the application that seeks to operate in the C-Band.⁵ Additionally we request that Sirius XM Radio provide, by amendment, additional information to allow the Commission to continue to process the application.⁶

Section 25.112 of the Commission's rules, 47 C.F.R. § 25.112, requires the Commission to return, as unacceptable for filing, any earth station application that is not substantially complete, contains internal inconsistencies, or does not substantially comply with the Commission's rules. With regard to its proposed C-Band operations, Sirius XM Radio's application does not comply with the Commission's rules, which renders it unacceptable and subject to dismissal. The deficiency is as follows:

Sirius XM Radio provides Digital Audio Radio Service (DARS) in the 2320-2332.5 MHz band (space-to-Earth) and feeder link services in the 7025-7075 MHz band (Earth-to-space). Section

¹ 2320.0- 2324.5, 2326.1- 2326.4, and 2328.0- 2332.5 MHz.

² 4196.35-4196.65, 4196.85-4197.15, 6422.0-6423.0, and 6424.0-6425.0 MHz.

³ 7051.5-7052.5, 7055.5-7056.5, 7060.0-7064.5, and 7068.0-7072.5 MHz.

⁴ Sirius FM-6 and non-geostationary satellites in the ITU filing of the USASAT-28C.

⁵ See IBFS File No. SAT-MOD-19981211-00099.

⁶ See 47 C.F.R. § 25.111(a).

25.202(g) of the Commission's rules, 47 C.F.R. § 25.202(g), requires that satellite Telemetry, Tracking, and Commanding (TT&C) functions for U.S. domestic satellites be conducted at either or both edges of the allocated bands of a particular service. In the case of DARS, this includes the edges of the 2320-2332.5 and 7025-7075 MHz bands. In the application before us now, Sirius XM Radio proposes to perform TT&C functions at its Ellenwood earth station in certain C-Band frequencies, instead of at the edges of its service band or feeder link band.⁷ Although Sirius XM Radio was granted a similar waiver of Section 25.202(g) in 1998 to add certain C-Band frequencies to its space station authorization for purposes of performing TT&C operations in the C-band at an earth station in South America, Sirius XM Radio has never requested such a waiver for any of its U.S. earth stations.⁸ On this basis, we dismiss Sirius XM Radio's application pertaining to its request to operate the proposed Ellenwood, GA earth station in portions of the C-Band.

While we dismiss a portion of the application on the above basis, we seek additional information regarding remaining portions of the application.

In response to item E40 (Total EIRP for all carriers) for antenna Feeder 1, Sirius XM Radio lists 78.0 dBW. Based on the 281.8 W total input power filed in response to item E38 and the 50.5 dBi antenna transmit gain filed in response to item E41/42, we calculate the Total EIRP for all carriers to be approximately 74.99 dBW. Likewise, for antennas Feeder 2 and 3, Sirius XM Radio lists 82.8 dBW as Total output EIRP for all carriers. Based on the 457 W total input power and the 52.8 dBi antenna transmit gain that Sirius XM Radio lists in its application, we calculate the Total EIRP for all carriers to be approximately 79.39 dBW. Pursuant to Section 25.111(a) of the Commission's rules, Sirius XM Radio must explain or correct these differences by amendment.

Accordingly, pursuant to Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. §25.112(a)(1), and Section 0.261 of the Commission's rules on delegations of authority, 47

⁷ Those frequencies are 4196.35-4196.65, 4196.85-4197.15, 6422.0-6423.0, and 6424.0-6425.0 MHz.

⁸ Sirius sought authorization to add the 4196.375-4197.125 MHz band for telemetry downlinks and the 6422-6425 MHz band for command uplinks for its Non-Geostationary Satellite DARS System in its 1998 modification of its satellite license. *See* IBFS File No. SAT-MOD-19981211-00099. In that application, Sirius proposed to locate TT&C earth stations in South America in order to provide TT&C operations for the total orbit of each NGSO satellite. Sirius sought a waiver of Section 25.202(g) of the Commission's rules because the service link frequencies (2320-2332.5 MHz) on which Sirius would normally operate its telemetry downlinks are allocated for other services and are not available for BSS (sound) systems in South America. Because Sirius was unable to use the service band in South America for TT&C, the Commission granted a waiver of Section 25.202(g). We also note that the TT&C frequency bands Sirius uses at its South American earth station are not identical to the TT&C frequency bands proposed for its Ellenwood earth station.

C.F.R. §0.261, we dismiss, without prejudice to refile, the C-Band portion of the application.⁹ Sirius XM Radio must submit the requested information within thirty calendar days from the date of this letter. Failure to submit the requested information will result in dismissal of the remaining portions of the application pursuant to Section 25.112(c) of the Commission's rules.

Sincerely,

Scott A. Kotler
Chief, Systems Analysis Branch
Satellite Division
International Bureau

⁹ If Sirius refiles an application identical to the ones dismissed, with the exception of supplying the missing information, it need not pay an application fee. *See* 47 C.F.R. § 1.1109(d).