

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Iridium 2GHz LLC)	File Nos. SAT-MOD-20030609-00103
)	SAT-WAV-20030609-00104
For Modification of Authority for Use of)	
1990-2025/2165-2200 MHz and Associated)	
Frequency Bands for a Mobile-Satellite System)	

ORDER

Adopted: August 29, 2003

Released: September 2, 2003

By the Chief, International Bureau:

1. By this *Order*, we dismiss a Petition for Reconsideration filed July 17, 2003 by Iridium 2GHz LLC (Iridium).¹ Iridium requests reconsideration of a July 3, 2003 letter from Thomas S. Tycz, Chief of the Satellite Division (Division) of the International Bureau (Bureau) to Peter D. Shields, counsel for Iridium.² In the July 3, 2003 letter, the Division returned Iridium's application to modify its 2 GHz Mobile-Satellite Service license to specify a single geostationary orbit satellite, rather than the currently-authorized 96 non-geostationary satellite orbit network, and to make changes to the system's feeder link spectrum.³ We find that the July 3, 2003 letter was an interlocutory action for which reconsideration procedures are not available.⁴

2. In the July 3, 2003 letter, the Division found procedural deficiencies in the Iridium Modification Application filed June 6, 2003, rendering the application unacceptable for filing at that time. As explained in the July 3, 2003 letter, some portions of the Iridium Modification Application appeared to seek authority to operate on previously-unauthorized feeder link frequencies, in violation of the space station application freeze then in effect pursuant to the *First Report and Order and Further Notice of Proposed Rulemaking* in IB Docket No. 02-34.⁵ Other portions of the Iridium Modification Application

¹ Petition for Reconsideration of Iridium 2GHz LLC regarding File Nos. SAT-MOD-20030609-00103, SAT-WAV-20030609-00104 (July 17, 2003).

² See Letter from Thomas S. Tycz, Chief, Satellite Division, International Bureau, FCC to Peter D. Shields, Counsel for Iridium 2GHz LLC (July 3, 2003) ("July 3, 2003 letter") (attached hereto as Exhibit 1).

³ See Application for Modification and Public Interest Demonstration of Iridium 2GHz LLC, File Nos. SAT-MOD-20030609-00103, SAT-WAV-20030609-00104 (June 6, 2003) (Iridium Modification Application), requesting modification of Iridium LLC, *Order and Authorization*, DA 01-1636, 16 FCC Rcd 13778 (Int'l Bur. 2001), *app. for review denied*, FCC 03-12, 18 FCC Rcd 1405 (2003), *appeal pending*, *AT&T Wireless Services, Inc. v. FCC*, No. 03-1042 (D.C. Cir. filed Feb. 26, 2003), *modified*, Iridium 2GHz LLC, *Order*, DA 03-2075, 18 FCC Rcd 12335 (Int'l Bur. 2003).

⁴ 47 C.F.R. § 1.106(a)(1) ("Petitions for reconsideration of [] interlocutory actions will not be entertained.").

⁵ Amendment of the Commission's Space Station Licensing Rules and Policies, IB Docket No. 02-34, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 03-102, 18 FCC Rcd 10760 (2003), *erratum*, DA 03-2087, 18 FCC Rcd 12674 (Sat. Div., Int'l Bur. 2003). See also Public Notice, DA 03-1284, 18 FCC Rcd 7903 (Int'l Bur. 2003) (Commission adopts freeze on new satellite license applications effective April 23, 2003); Public Notice, DA 03-2737 (Sat Div., Int'l Bur., August 27, 2003) (Commission lifts freeze on new satellite license applications on August 27, 2003).

indicated that Iridium was not requesting requisite feeder link authority, in violation of the “concrete proposal” requirements set forth in Sections 25.114(b) and 25.114(c)(6)(iii) of the Commission’s rules.⁶ Therefore, the Division returned Iridium’s application “without prejudice to refile a concrete proposal on or after the date upon which the freeze is no longer in effect.”⁷

3. We find under the circumstances in this case, which involve a temporary freeze on the filing of applications, that returning an application as procedurally defective without prejudice to refile a procedurally perfected application is an interlocutory action.⁸ An interlocutory action is an interim determination on a matter involving an application; it does not grant or deny the application. In this case, the July 3, 2003 letter was not a final ruling on any Iridium licensing matter. The Division has taken no action on the substance of the Iridium Modification Application,⁹ nor did the Division irrevocably commit the Bureau to granting or denying Iridium’s application once it is procedurally acceptable for filing. Rather, the July 3, 2003 letter was an interlocutory action, postponing acceptance and review of the Iridium Modification Application until we can properly consider the application.¹⁰ Pursuant to Section 1.106 of the Commission’s Rules, reconsideration of such interlocutory actions will not be entertained.¹¹

4. Accordingly, IT IS ORDERED that, pursuant to Section 1.106(a)(1) of the Commission’s Rules, 47 C.F.R. § 1.106(a)(1), the Petition for Reconsideration filed July 17, 2003 by Iridium 2GHz LLC, regarding File Nos. SAT-MOD-20030609-00103, SAT-WAV-20030609-00104, IS DISMISSED. This action is taken under delegated authority pursuant to Sections 0.51 and 0.261 of the Commission’s Rules, 47 C.F.R. §§ 0.51, 0.261.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau

⁶ 47 C.F.R. § 25.114(b) (“Each application for a new or modified space station authorization must constitute a *concrete proposal* for Commission evaluation”) (emphasis added); *id.* § 25.114(c)(6)(iii) (concrete proposal includes “the feeder link . . . frequencies requested for the satellite”).

⁷ July 3, 2003 letter at 2.

⁸ *See, e.g., Fort Harrison Telecasting Corp. v. FCC*, 297 F.2d 779 (D.C. Cir. 1961) (Commission order denying reconsideration of dismissal of application without prejudice to applicant’s right to refile at the appropriate time was an unreviewable interlocutory order by which the applicant was not aggrieved).

⁹ For example, Iridium could not request a hearing under section 309(e) of the Communications Act, 47 U.S.C. § 309(e), as a result of the Division’s action. *See Kessler v. FCC*, 326 F.2d 673, 684 (D.C. Cir. 1963) (“[W]here an application is not accepted for filing because of a temporary freeze on filing adopted by the Commission, which is properly determined to be in the public interest, the right to a hearing under the terms of Section 309(e) has not materialized.”).

¹⁰ We note that Iridium has submitted a modification application subsequent to the lifting of the filing freeze requesting, *inter alia*, authority to provide feeder links in the same frequencies referenced in the returned application. *See* Application for Modification and Public Interest Demonstration of Iridium 2GHz LLC, File No. SAT-MOD-20030828-00286 (filed August 28, 2003).

¹¹ 47 C.F.R. § 1.106(a)(1). The Commission historically has applied this rule to similar interlocutory actions. *See, e.g.,* Abundant Life, Inc., *Memorandum Opinion and Order*, FCC 97-180, 12 FCC Rcd 11724 (1997), *aff’d sub nom., Unity Broadcasters v. FCC*, No. 02-1101, 2003 WL 2100094264 (D.C. Cir. Apr. 25, 2003) (unpublished opinion) (reinstatement of an application found to be an interlocutory action, not subject to a petition for reconsideration); Hughes-Moore Associates, Inc., *et al.*, MM Docket No. 89-544, *Memorandum Opinion and Order*, FCC 90R-76, 5 FCC Rcd 5343 (Rev. Bd. 1990) (same); Alexander Snipe, Jr. d/b/a Glory Communications, *et al.*, MM Docket No. 92-184, *Hearing Designation Order*, DA 92-1077, 7 FCC Rcd 5278, 5278 ¶ 3 (Aud. Serv. Div., MMB 1992) (same).