



support of its Petition for Reconsideration, which included an exhibit purporting to show that moving SBS-4 will not have a material effect on its antenna gain contours.<sup>5</sup>

4. We deny PanAmSat's petition for reconsideration. First, we disagree with PanAmSat that the omission was immaterial. PanAmSat's claim that relocating a satellite from 77° W.L. to 125° W.L. has no material effect on the satellite's antenna gain contours is belied by its own analysis. As illustrated by the attachment to PanAmSat's *October 27 Letter*, the satellite beams at the 125° W.L. location are proposed to be repointed so that the beams are directed towards the satellite's original service area.<sup>6</sup> Moreover, that repointing also affects the satellite's antenna gain contours on the Earth's surface. For example, at the 77° W.L. orbit location, the satellite beam's EIRP is in the 30 to 36 dBW range over Maine. That EIRP increases to the 42 to 44 dBW range from the 125° W.L. orbit location.<sup>7</sup> Therefore, we cannot treat such relocations as "immaterial" as PanAmSat suggests.

5. Most significantly, Section 25.114(c) of the Commission's rules<sup>8</sup> clearly and explicitly requires all space station applicants to submit items of information, including predicted space station contours for each antenna beam and nominal orbital location requested. PanAmSat failed to provide this required information, thus rendering its application incomplete. Therefore, we affirm the Division's conclusion in the *October 22 Letter* that PanAmSat's application must be dismissed for failure to comply with the requirements of Section 25.114(c).<sup>9</sup>

6. PanAmSat's argument that dismissal of its application as incomplete is inconsistent with previous practices is not convincing.<sup>10</sup> Recently, we conducted a comprehensive review of our space station rules and underlying policies, including the policies and practices related to Section 25.114(c). In the *First Space Station Reform Order*,<sup>11</sup> the Commission revised the space station licensing process to adapt it to today's satellite environment. As part of the measures adopted in the *First Space Station Reform Order*, the Commission determined to continue to

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<sup>5</sup> Letter from Joseph A. Godles, Attorney for PanAmSat Licensee Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 27, 2003) (*October 27 Letter*).

<sup>6</sup> The antenna contour characteristics had coverage based on the beam pointing and location of the beam center at the 77° W.L. location. Relocating the satellite to 125° W. L. would cause the beam centers of that satellite to be directed towards a different area of the earth's surface if the same antenna pointing was maintained.

<sup>7</sup> *October 27 Letter*, Att.

<sup>8</sup> 47 C.F.R. § 25.114(c).

<sup>9</sup> *October 22 Letter* at 1.

<sup>10</sup> PanAmSat filed another supplement to its petition for reconsideration on October 31, 2003, listing four cases in which it claims that the Commission did not require GE Americom to submit antenna gain contours with modification requests seeking to relocate satellites. Application of PanAmSat Licensee Corp. for Authority to Construct, Launch, and Operate a Hybrid Satellite in its Separate International Communications Satellite System, Supplement to Petition for Reconsideration (Oct. 31, 2003) (PanAmSat Supplement) at 3.

<sup>11</sup> Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 (para. 244) (2003) (*First Space Station Reform Order*).

require applications to be substantially complete when filed.<sup>12</sup> As the Commission noted, the procedures and rules it adopted will enable the Commission to establish satellite licensees' operating rights clearly and quickly, and as a result, allow licensees to provide service to the public much sooner than might be possible under our previous licensing procedures.<sup>13</sup> Finding incomplete applications acceptable for filing is not consistent with the rules and policies adopted by the Commission in the *First Space Station Reform Order* and only serves to create uncertainty and inefficiencies in the licensing process.

7. Finally, we note that information provided in a Petition for Reconsideration to correct a prior deficiency in a dismissed application cannot be used to reinstate an initial application or maintain a previous position in the queue. As required in the *First Space Station Reform Order*, complete applications must be filed electronically in order to be included in the queue and considered for first-come, first-served treatment.<sup>14</sup> Thus, we cannot consider the antenna gain contour diagram in the *October 27 Letter* for first-come, first-served license treatment unless and until, PanAmSat includes that information as part of an electronically filed, substantially complete satellite application.

8. PanAmSat of course may refile its application electronically.<sup>15</sup> Consistent with our new rules, if no application for a Ku-band satellite at the 125° W.L. location is properly filed prior to PanAmSat's refiled application, PanAmSat would be accorded first in line processing status.

9. Accordingly, IT IS ORDERED, that pursuant to Sections 4(i), 301, 302, 303(r), 308, 309, 310, and 405 of the Communications Act, 47 U.S.C. §§ 154(i), 301, 302, 303(r), 308, 309, 310, 405 and Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by PanAmSat Licensee Corp. on October 24, 2003, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson  
Chief, International Bureau

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<sup>12</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10852 (para. 244), citing *Space Station Reform NPRM*, 17 FCC Rcd at 3875 (para. 84). The cases cited in PanAmSat's Supplemental Letter predate the *First Space Station Reform Order*, which made clear that applicants are required to submit substantially complete applications, including all the information in Section 25.114.

<sup>13</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10765-66 (para. 4).

<sup>14</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10852-84 (paras. 246-49).

<sup>15</sup> If PanAmSat refiles an application identical to the one dismissed, with the exception of supplying the antenna gain contours, it need not pay a further application fee. See 47 C.F.R. § 1.1109(d).