

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

In the Matter of)	
)	
Further Streamlining Part 25 Rules Governing)	IB Docket No. 18-314
Satellite Services)	

COMMENTS OF SES AMERICOM, INC. AND O3B LIMITED

SES Americom, Inc. and its affiliate O3b Limited (collectively, “SES”) submit these comments regarding the Notice of Proposed Rulemaking in the above-captioned proceeding, which seeks input on a variety of proposals for reform of the Part 25 rules governing satellite network operations.¹ SES supports the Commission’s ongoing efforts to review and revise its Part 25 regulatory framework in order to minimize unnecessary burdens on space and earth station applicants and Commission staff. SES endorses a number of the specific streamlining proposals in the Notice but opposes elimination of Commission requirements necessary to prevent abuse of Commission processes.

I. THE COMMISSION SHOULD ADOPT AN EXPANDED VERSION OF THE COMPREHENSIVE AUTHORIZATION PROPOSAL

SES supports giving applicants the option of seeking a combined authorization covering both the space station and earth station operations associated with a proposed network,² but cautions that unless the option is available in a greater variety of circumstances, it is unlikely to achieve the Commission’s goals. Accordingly, SES urges the Commission to allow applicants seeking authority for a broader range of frequencies to use the comprehensive approach and to make the procedure available for non-geostationary orbit (“NGSO”) as well as geostationary

¹ *Further Streamlining Part 25 Rules Governing Satellite Services*, Notice of Proposed Rulemaking, FCC 18-165 (rel. Nov. 15, 2018) (“Notice”).

² *See id.* at ¶¶ 6-14.

orbit (“GSO”) fixed-satellite service (“FSS”) systems. In addition, the Commission should permit earth station applicants to certify they will comply with space station authorization provisions in lieu of submitting redundant information via the Form 312 Schedule B.

As the Commission recognizes, the information required for an earth station application overlaps in material respects with what must be submitted for space station authority.³ The current framework, under which space and earth station applications are filed and processed separately, requires duplication of effort by both applicants and the Commission staff, as issues relating to usage of specific frequency bands are addressed during the satellite authorization phase only to be dealt with anew when earth station applications are submitted. Accordingly, SES agrees that the revisions set forth in the Notice could lessen burdens on Commission staff and applicants alike and speed service to the public by eliminating unnecessary duplication of licensing procedures.

The narrow scope of the unified authorization proposal in the Notice, however, threatens to significantly limit any benefits of the approach. Specifically, the Commission tentatively concludes that comprehensive filing should be permitted only for a small subset of applications: those seeking a license for “GSO FSS space stations and earth stations in bands in which the Commission has adopted standard power limits under our two-degree spacing policy, excluding frequencies under 10 GHz.”⁴ The Commission seeks comment, however, on whether the approach should be extended to other bands and services.⁵

³ *See id.* at ¶ 6.

⁴ *Id.* at ¶ 9.

⁵ *Id.*

SES strongly supports expansion of the comprehensive filing option to encompass additional types of applications in order to maximize the efficiencies that can be achieved by unified processing. In spectrum governed by two-degree spacing such as the conventional Ku- and Ka-bands, the standardized operating specifications in the Commission's rules already substantially decrease the resources required to prepare and process applications. The duplication of effort is much more significant in other bands that lack a set of default technical parameters. In cases involving use of such spectrum, operators must submit, and Commission staff must review and evaluate, a much more extensive set of materials as part of the space station authorization application, only to go through the process again at the earth station licensing stage with a partially overlapping array of legal and technical showings. Similarly, cases involving NGSO systems are more likely to require significant substantive review by the Commission staff than are run-of-the-mill GSO network filings. Combining the space and earth station licensing processing for these systems that present more complex regulatory issues would pay much greater efficiency dividends.

To further enhance the benefits of having a more holistic satellite network authorization approach, SES strongly supports the proposal for the Commission to allow earth station applicants to "certify that they will comply with the terms and conditions of the space station network with which the earth station will communicate as a substitute for filing the technical information about the proposed earth station operations currently required to be submitted by earth station applicants under Schedule B to the earth station application."⁶ As the Notice acknowledges, pursuant to Commission policies already in place, satellite operators can use contractual requirements to ensure that they have adequate control over terminals authorized

⁶ *Id.* at ¶ 11.

under a blanket earth station license granted to the satellite operator that are deployed by customers.⁷ However, there are a number of reasons why a space segment customer might need or want to have its own earth station license. Allowing such customers to certify compliance with the terms of the satellite authorization will streamline the earth station licensing process in these cases, further reducing administrative burdens on both the Commission staff and applicants.

Moreover, this alternative approach can readily be implemented with respect to a broad range of earth station applications. Any type of satellite authorization conferred by the Commission at any time in any frequency band, whether a U.S.-license or a market access grant, and for either GSO or NGSO systems, could be used as the basis for the earth station applicant's compliance certification. As a result, this change is likely to have a more far-reaching streamlining effect than the comprehensive licensing approach, which would be available in a more limited set of circumstances.

II. SES SUPPORTS THE NOTICE'S PROPOSAL FOR ALIGNING EARTH STATION BUILD-OUT REQUIREMENTS

The Commission should adopt its proposal to align build-out deadlines for gateway earth stations subject to Section 25.136 with the in-service dates for the associated space stations.⁸ In connection with its SES-15 space station, SES faced the precise circumstances described in the Notice. The gateway earth station sites had to be selected as part of the SES-15 satellite design process, and SES needed to seek authority for those earth stations early on in order to ensure they would be entitled to protection from subsequent terrestrial stations. However, operations of the

⁷ *Id.*

⁸ *Id.* at ¶¶ 15-16.

earth stations could not begin until much later when the satellite commenced service. As a result, SES required an extension of the build-out requirement to maintain the gateway earth station licenses pending the launch and operation of the spacecraft.⁹ The rule changes proposed by the Commission would address these issues, enhancing certainty during the satellite network planning process.

III. UNNECESSARY REPORTING REQUIREMENTS SHOULD BE ELIMINATED

SES supports the Commission's proposal to delete the requirement in Section 25.170 to submit annual reports regarding satellite operational and construction status matters.¹⁰ As the Notice observes, these documents do not appear to be used regularly by Commission staff. Accordingly, as proposed, the Commission should eliminate the filing requirements except for the obligation to confirm or update contact information for satellite operators.

IV. SES SUPPORTS INCORPORATING THE INTERNATIONAL STANDARD FOR OUT-OF-BAND EMISSIONS

SES agrees that the Commission should incorporate Recommendation ITU-R SM.1541-6 into its rules to specify out-of-band emission limits.¹¹ As the Commission explains, that ITU Recommendation was developed with input from the United States and is less subject to misinterpretation than the current Commission out-of-band emission rule. Relying on the international standard will therefore reduce confusion regarding out-of-band limits.

⁹ See, e.g., Call Sign E160015, File No. SES-MOD-20170601-00616, granted Sept. 6, 2017.

¹⁰ Notice at ¶ 17.

¹¹ *Id.* at ¶¶ 18-19.

V. THE COMMISSION SHOULD RETAIN ITS DISMISSAL REQUIREMENTS AND DECLINE TO LIMIT APPLICATION REVIEW

No change should be made in Commission policies regarding the standards and timetable for determining whether a Part 25 application is acceptable for filing. EchoStar's proposals to nullify the requirement that applications be substantially complete and to establish a deadline for review of an initial application are unsupported by any evidence, would impose inappropriate burdens on Commission staff, and would create incentives for applicants to game Commission processes.

Subsections (a)(1) and (a)(2) of Section 25.112 currently provide that an application is subject to dismissal if it is "defective with respect to completeness"¹² or does not "substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements."¹³ Commission staff are not required to perform the review to determine whether an application meets this standard within any prescribed time period.

In comments cited in the Notice, EchoStar has argued that the Commission should modify Sections 25. 25.112(a)(1) and (2) to allow an applicant 60 days following a request from Commission staff to cure any defects in an application and should also add a new subsection specifying that an application would automatically be accepted for filing within 30 days unless the Commission staff has requested additional information within that period.¹⁴ Neither of these requested changes is warranted.

¹² 47 C.F.R. § 25.112(a)(1).

¹³ 47 C.F.R. § 25.112(a)(2).

¹⁴ Notice at ¶ 20 & n.27, *citing* Comments of EchoStar Satellite Operation Corporation and Hughes Network Systems, LLC, IB Docket No. 16-131 (filed Dec. 5, 2016) ("EchoStar Comments") at 6.

EchoStar claimed without support that the “fairly vague” standards in Section 25.112(a) have “often resulted in dismissal of an application for minor errors or omissions that could have been corrected readily without unduly delaying FCC processing of the application.”¹⁵ But EchoStar did not supply any examples to corroborate this assertion, and EchoStar’s characterization does not reflect SES’s experience. Moreover, EchoStar’s proposal that applicants be allowed by rule to correct any errors or omissions within 60 days of a Commission request is highly problematic. As the Notice observes, such a policy would mean that no application, however “woefully incomplete” under Commission rules, would be subject to immediate dismissal, allowing applicants to secure and maintain a position in the processing queue using placeholder filings that are missing significant required elements or have major inaccuracies.¹⁶

For example, an applicant rushing to file at the beginning of a window when additional spectrum becomes available at a given GSO orbital location or to meet an NGSO processing round deadline could file a bare Form 312 and take the position that it could defer submitting any other required materials – a legal narrative, technical appendix, or Schedule S – until 60 days following receipt of a written request from the Commission. Such an outcome would reward noncompliance, undermine the integrity of the Part 25 licensing process, and waste Commission staff resources processing blatantly defective submissions. The current “substantially complete” standard may not be perfect, but it is infinitely superior to the approach proposed by EchoStar, which embodies no standard at all and would give every applicant the right to cure the most gaping holes in an application well after filing.

¹⁵ EchoStar Comments at 6.

¹⁶ Notice at ¶ 21.

SES also objects to the EchoStar proposal to set a 30-day time limit during which Commission staff members must complete their review to determine if an application is acceptable for filing and to request any necessary additional information. A hard and fast limit is inappropriate given the varying factors affecting the speed with which Commission staff can reasonably be expected to fully evaluate an application, including the complexity of the proposed satellite network and the staff's workload on other applications and rulemaking proceedings. The recent Ku/Ka-band NGSO processing round, for example, produced a dozen applications filed contemporaneously, and the Commission staff could not feasibly have completed a thorough review of all twelve within 30 days. Similarly, the Commission in 2018 received a deluge of thousands of C-band earth station registration filings, presenting a crushing workload for Commission staff that could not have been addressed under the 30-day standard sought by EchoStar.

These considerations dictate against any changes in the Commission's current policies on application acceptability review. In contrast to other streamlining initiatives discussed in the Notice, the revisions proposed by EchoStar would impose new, unjustified burdens on Commission staff and disadvantage legitimate applicants.

VI. THE COMMISSION SHOULD ADOPT THE CHANGES TO SECTION 25.118 REQUESTED BY IRIDIUM

SES supports the proposals in the Notice to implement Iridium's proposed revisions to Section 25.118 by exempting from any filing requirement changes to earth station operations that would not increase the risk of interference to other authorized users.¹⁷ The rule currently provides that changes that meet the specifications in Section 25.118(a)(4) may be made without

¹⁷ *Id.* at ¶¶ 22-23.

prior Commission approval, but requires the licensee to submit a “notification” after the fact consisting of a completed Form 312 and Schedule B.¹⁸ Such an approach is unduly burdensome and unnecessary. Accordingly, SES concurs that the Commission should allow these types of operating changes to be implemented under the approach set forth in Section 25.118(b), which makes clear that no filing is required.

VII. THE COMMISSION SHOULD RESOLVE UNCERTAINTY REGARDING THE KU-BAND DEFAULT TWO-DEGREE SPACING LEVELS

Finally, SES renews its request that the Commission clarify the default two-degree spacing level for downlink operations in the conventional and extended Ku-band spectrum.¹⁹ SES filed a petition for reconsideration raising this issue more than two years ago,²⁰ and resolution of the matter is needed given ongoing uncertainty regarding the Commission’s rules.

VIII. CONCLUSION

For the foregoing reasons, SES urges the Commission to adopt the proposals in the Notice with the modifications set forth herein in order to streamline and update the Part 25 rules.

Respectfully submitted,

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¹⁸ 47 C.F.R. § 25.118(a).

¹⁹ See *Ex Parte* Letter from Karis Hastings, Counsel for SES Americom, Inc. and New Skies Satellites B.V., to Marlene H. Dortch, Secretary, FCC, IB Docket No. 18-314 (filed Nov. 7, 2018).

²⁰ See *id.* at 1 n.3, citing Petition for Reconsideration of SES Americom, Inc. and New Skies Satellites B.V., IB Docket No. 12-267 (filed Sept. 19, 2016) at 15.