

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

In the Matter of)	
)	
Amendment of the Commission's Policies and)	IB Docket No. 06-160
Rules for Processing Applications in the)	
Direct Broadcast Satellite Service)	

COMMENTS OF SES AMERICOM, INC. AND ITS AFFILIATES

SES Americom, Inc. and its affiliates (collectively, “SES”) submit these comments in response to the Second Notice of Proposed Rulemaking in the above-captioned proceeding, which seeks input on revisions to Commission rules applicable to direct broadcast satellite (“DBS”) service.¹ SES supports the Commission’s proposals to align the application and licensing rules for DBS with those for geostationary orbit (“GSO”) fixed-satellite service (“FSS”) operations. SES urges the Commission, however, to broaden the scope of this proceeding in order to pursue more intensive satellite utilization of DBS spectrum bands, including authorizing protected GSO FSS use of the frequencies.

I. THE COMMISSION SHOULD EXTEND FSS APPLICATION PROCESSING, BOND, MILESTONE, AND LICENSE TERM RULES TO DBS

SES agrees with the Commission that DBS service should be subject to the same basic licensing framework applicable to GSO FSS.² As the Commission emphasizes, apart from the use of small receive antennas, DBS operations are technically similar to GSO FSS networks.³

¹ *Amendment of the Commission’s Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service*, Second Notice of Proposed Rulemaking, FCC 18-157 (rel. Nov. 13, 2018) (“Notice”). SES entities operate two DBS satellites authorized to serve the U.S. market: the Canadian-licensed Ciel-2 spacecraft at 128.85° W.L. and the Mexican-licensed QuetzSat-1 spacecraft at 77° W.L.

² *See id.* at ¶¶ 7-19.

³ *Id.* at ¶ 3.

Accordingly, the Notice's proposals to make DBS subject to GSO FSS rules, including the application information requirements in Section 25.114 and the first-come, first-served approach for processing requests for new authority, to require DBS operators to comply with GSO FSS milestone and bond obligations, and to extend DBS license terms to 15 years, are reasonable and appropriate. Indeed, SES supported these proposals⁴ when the Commission first advanced them in 2006.⁵ Once these procedures have taken effect, the Commission should lift the long-standing freeze on new DBS applications, which has been in place since December 2005.⁶

II. THE COMMISSION SHOULD EXPLORE OPTIONS TO INCREASE USE OF DBS SPECTRUM FOR COMPATIBLE SATELLITE OPERATIONS

SES questions, however, whether putting in place updated application and licensing rules and terminating the freeze will necessarily lead to a significant number of viable new DBS operations. Proposals to introduce DBS satellites at less than nine-degree spacing are unlikely to succeed given the Commission's tentative conclusion that such applicants should be required to demonstrate either that they will not "affect" any incumbent satellites under outdated, highly conservative International Telecommunication Union ("ITU") criteria or that they have successfully coordinated with those incumbents.⁷ As the SES filings in response to the 2006

⁴ See Comments of SES Americom, Inc., IB Docket No. 06-160 & Report No. SPB-196, filed Dec. 12, 2006 ("SES 2006 Notice Comments") at 20-21; Reply Comments of SES Americom, Inc., IB Docket No. 06-160 & Report No. SPB-196, filed Jan. 25, 2007 at 27-29.

⁵ *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service; Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Service in the United States*, Notice of Proposed Rulemaking, 21 FCC Rcd 9443 (2006) ("2006 Notice").

⁶ See Notice at ¶ 5 & n.10, *citing* Direct Broadcast Satellite Service Auction Nullified: Commission Sets Forth Refund Procedures for Auction No. 52 Winning Bidders and Adopts a Freeze on All New DBS Service Applications, *Public Notice*, FCC 05-213 (rel. Dec. 21, 2005).

⁷ Notice at ¶¶ 25-32.

Notice explained, these incumbent protections are unnecessarily restrictive and all but ensure that no DBS operations at reduced orbital spacing can feasibly be implemented.⁸

SES and other operators, however, have increasingly looked to DBS spectrum to meet demand for FSS operations, and the Commission should take steps to encourage such use. SES and Intelsat have each sought and received Commission authority to provide FSS in portions of the 12.2-12.7 GHz band (“12 GHz band”) used for DBS downlinks as well as parts of the 17.3-17.8 GHz band (“17 GHz band”) used for both DBS feeder links and downlinks for 17/24 GHz broadcasting-satellite service (“BSS”) networks.⁹ Earlier this month, SES filed a market access request for the SES-17 space station to use frequencies including the 17 GHz band for FSS downlinks¹⁰ and a petition for rulemaking asking the Commission to revise its rules to grant protected status for FSS downlink operations in the 17.3-17.7 GHz frequencies.¹¹ The SES 17 GHz Petition explains that authorizing FSS downlinks in this spectrum on a protected basis is fully compatible with existing satellite operations in the 17 GHz band and would satisfy demand for additional spectrum for Ka-band high throughput satellites.

⁸ See SES 2006 Notice Comments at 12-20.

⁹ See, e.g., SES DTH do Brasil Ltda, Call Sign S2974, File No. SAT-PPL-20160918-00093, granted Feb. 9, 2017 (granting SES-14 U.S. market access for FSS downlink operations in the 12.2-12.45 GHz frequencies and FSS uplink operations in the 17.3-17.8 GHz frequencies at 47.5° W.L.); Intelsat License LLC, Call Sign S2913, File No. SAT-LOA-20130722-00097, granted May 21, 2015 (licensing Intelsat 29e for FSS downlink operations in the 12.2-12.5 GHz frequencies and FSS uplink operations in 17.3-17.55 GHz frequencies from at 50° W.L.). See also Eutelsat S.A., Call Sign S3031, File No. SAT-MPL-20180908-00068, granted Feb. 14, 2019 (granting EUTELSAT 133WA U.S. market access for FSS downlink operations in the 12.5-12.75 GHz frequencies at 132.85° W.L.); Skynet Satellite Corp., Call Sign S2933, File No. SAT-MOD-20160225-00022, granted May 18, 2016 (licensing Telstar 12V for FSS downlink operations in the 12.5-12.75 GHz frequencies at 15° W.L.).

¹⁰ SES-17 S.a.r.l., Call Sign S3043, File No. SAT-PPL-20190305-00014.

¹¹ In the Matter of Amendment of Parts 2 and 25 of the Commission’s Rules to Enable Primary Fixed-Satellite Service (Space-to-Earth) Operations in the 17.3-17.7 GHz Band, Petition for Rulemaking of SES Americom, Inc., filed March 5, 2019 (“SES 17 GHz Petition”).

SES urges the Commission to take this opportunity to initiate an investigation of the potential public interest benefits of expanded, protected FSS use of the 12 GHz band as well. Specifically, the Commission should issue a further notice in the instant proceeding to seek input on allowing FSS downlinks to operate under the DBS allocation in the 12 GHz band. Existing rules already contemplate such use, as footnote 5.492 to the international table of allocations specifies that:

Assignments to stations of the broadcasting-satellite service which are in conformity with the appropriate regional Plan or included in the Regions 1 and 3 List in Appendix 30 may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference, or require more protection from interference, than the broadcasting-satellite service transmissions operating in conformity with the Plan or the List, as appropriate.¹²

The Commission has relied on this footnote to make clear that DBS spectrum can be used for FSS operations. In 2002, the Commission affirmed and expanded operators' flexibility to use the DBS spectrum for a full range of services, finding that:

allowing non-conforming satellite use of DBS spectrum is consistent with the Commission's spectrum management policies, which favor greater options and choices for consumers. We conclude that the relaxation of use restrictions will encourage development of new telecommunications products and services.¹³

In addition, the Commission emphasized that according flexibility in spectrum use may lead to more efficient spectrum markets.¹⁴ The Commission determined that granting such operating

¹² 47 C.F.R. § 2.106, footnote 5.492.

¹³ *Policies and Rules for the Direct Broadcast Satellite Service*, Report and Order, 17 FCC Rcd 11331, 11401 (2002).

¹⁴ *Id.*

flexibility did not raise interference concerns and accordingly decided not to “adopt different interference criteria for non-conforming uses of DBS spectrum.”¹⁵

The Commission’s discussion of these matters was focused on granting flexibility to DBS licensees at locations assigned to the U.S. for DBS under the ITU Region 2 plan, but the same rationale supports allowing any operator to use the 12 GHz band for FSS and not limiting such use to designated DBS orbital locations. Such an approach would greatly increase the number of orbital locations from which 12 GHz services could be provided, as FSS networks can operate compatibly at two-degree spacing, rather than the nine-degree spacing used for DBS space stations. To maximize these benefits, the Commission should propose to apply FSS technical standards and interference protection criteria as between adjacent FSS satellites using the 12 GHz band and also consider whether spacing of less than nine degrees may provide sufficient interference protection of an incumbent DBS space station from an adjacent new FSS operator under current technology.

Even if the Commission does not revise the DBS protection criteria, it should at least make clear that FSS applicants can seek authority at or near the four westernmost U.S. DBS plan assignments (148° W.L., 157° W.L., 166° W.L., and 175° W.L.), all of which are vacant, notwithstanding whether the FSS use would “affect” the DBS assignment. An FSS applicant seeking to initiate services from that portion of the orbital arc should not be required to demonstrate that its operations would be compatible with theoretical future DBS service from those slots.

In short, the proposals in the Notice are unlikely to result in material new entry. However, Commission action to grant FSS downlinks status equal to DBS in the 12 GHz band

¹⁵ *Id.* at 11402.

would pave the way for introduction of additional services in response to customer demand, promoting efficient use of spectrum, and would thereby serve the public interest.

III. CONCLUSION

For the foregoing reasons, SES supports applying GSO FSS rules to DBS applications and licenses but urges the Commission to widen the scope of this rulemaking to authorize FSS use of the 12 GHz band.

Respectfully submitted,

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