

**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)	

REPLY COMMENTS OF SES AMERICOM, INC. AND O3B LIMITED

SES Americom, Inc. and its affiliate O3b Limited (collectively, “SES”) hereby reply to the comments of other parties in response to the Notice of Proposed Rulemaking in the above-captioned proceeding regarding proposed revisions to the Part 25 rules.¹ As discussed herein, the record supports modifying Part 25 provisions to streamline application processing and delete unnecessary filing requirements but does not justify revising rules needed to protect the integrity of Commission processes.

I. PARTIES SUPPORT EXPANDING THE PROPOSAL FOR COMPREHENSIVE SPACE AND EARTH STATION LICENSING

The SES Comments endorse the proposal for an optional procedure to simultaneously license new space stations and associated earth stations, but urge the Commission to go beyond the limited scope proposed in the Notice.² In particular, SES supports making the unified approach available for non-geostationary orbit (“NGSO”) as well as geostationary orbit (“GSO”) fixed-satellite service (“FSS”) systems without limitation on the relevant frequencies.³ In addition, SES encourages the Commission to allow earth station applicants to certify they will

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

² Comments of SES Americom, Inc. and O3b Limited, IB Docket No. 18-314, filed Mar. 18, 2019 (“SES Comments”) at 1-4. Unless otherwise indicated, all citations herein are to comments filed on March 18, 2019 in IB Docket No. 18-314.

³ *See id.* at 1-3.

comply with space station authorization provisions in lieu of submitting redundant information via the Form 312 Schedule B.⁴

Other commenters similarly favor the concept of unified licensing but advocate broadening the approach to encompass a wider range of applications. EchoStar, Intelsat, and ViaSat all emphasize that the Commission should expand the frequencies in which a combined authorization can be requested,⁵ and Maxar and OneWeb urge extending the approach to NGSO as well as GSO networks.⁶

Parties also echo SES's support for allowing earth station applicants to accept and incorporate the terms and conditions of a satellite authorization instead of being required to submit duplicative information regarding proposed earth station operations.⁷ As ViaSat notes, this mechanism will allow streamlining of the application process in cases in which the earth station operator prefers having its own license, rather than relying on a contractual agreement with the satellite operator.⁸

Thus, to achieve the public interest benefits identified in the Notice –decreasing burdens on both Commission staff and applicants and speeding service to the public by eliminating unnecessary duplication of licensing procedures⁹ – the Commission should adopt an expanded version of the unified licensing proposal. The approach should be available for GSO and NGSO systems in all satellite spectrum, and the Commission should also adopt its proposal to allow

⁴ *Id.* at 3-4.

⁵ EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (“EchoStar”) Comments at 3-4; Intelsat Comments at 3-4; Viasat Comments at 5-6.

⁶ Maxar Comments at 4-5; WorldVu Satellites Limited (“OneWeb”) Comments at 3-5.

⁷ Intelsat Comments at 5; Viasat Comments at 7.

⁸ Viasat Comments at 7. *See also* SES Comments at 4.

⁹ Notice at ¶¶ 6-7.

earth station applicants to certify compliance with a satellite authorization as a substitute for submitting the technical information currently required under Form 312 Schedule B.¹⁰

II. THE COMMISSION SHOULD ADOPT OTHER RULE REVISIONS PROPOSED IN THE NOTICE

Several other changes to streamline Part 25 set forth in the Notice received broad support in the record and should be implemented by the Commission. Specifically, parties agree that:

- Build-out deadlines for gateway earth stations subject to Section 25.136 should be aligned with the in-service dates for the associated space stations.¹¹
- The requirement in Section 25.170 to submit annual reports regarding satellite operational and construction status matters should be eliminated.¹²
- The Commission should incorporate Recommendation ITU-R SM.1541-6 into its rules to specify out-of-band emission limits.¹³

¹⁰ *See id.* at ¶ 11.

¹¹ SES Comments at 4-5; EchoStar Comments at 4-5; Maxar Comments at 3-4; OneWeb Comments at 1-3; Viasat Comments at 7-8.

¹² SES Comments at 5; Commercial Smallsat Spectrum Management Association (“CSSMA”) Comments at 2; EchoStar Comments at 6; Eutelsat Comments at 3; Intelsat Comments at 2; Iridium Comments at 3-4; Maxar Comments at 2-3; OneWeb Comments at 6; Viasat Comments at 8-9.

¹³ SES Comments at 5; CCSMA Comments at 2-3; EchoStar Comments at 6-7; Eutelsat Comments at 3; Intelsat Comments at 2; OneWeb Comments at 6; Viasat Comments at 9-10.

The concern expressed by the National Academy of Sciences’ Committee on Radio Frequencies (“CORF”) that the proposed changes to the rule regarding out-of-band emission limits would constrain the Commission’s flexibility to protect passive scientific observations (*see* CORF Comments at 13) is unfounded. The Commission routinely imposes conditions on both GSO and NGSO space station authorizations incorporating international standards for protecting passive services. *See, e.g., Intelsat License LLC*, Call Sign S2972, File No. SAT- LOA-20160915-00089, grant-stamped June 8, 2018, Attachment to Grant at 4, ¶ 16 (noting that authorized GSO satellite operations in certain band segments are “subject to footnote US211 to the United States Table of Frequency Allocations, 47 CFR § 2.106, US211, which urges applicants for airborne or space station assignments to take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference”); *O3b Limited*, Order and Declaratory Ruling, FCC 18-70 (rel. June 6, 2018), subparagraph 47(c) (similar provision citing footnote US211 with respect to operation of NGSO satellite system). These conditions are not dependent on, and do not even reference, the out-of-band emission provisions in Section 25.202, and changing that rule

- The Commission should revise Section 25.118 to exempt from any filing requirement changes to earth station operations that would not increase the risk of interference to other authorized users.¹⁴

The record before the Commission on these matters provides the foundation for prompt action to incorporate these rule revisions into the Part 25 framework.

III. THE FACTS DO NOT WARRANT CHANGES TO COMMISSION POLICIES REGARDING APPLICATION REVIEW AND DISMISSAL

In contrast to the unanimous satellite industry support for the rule modifications discussed above, the record does not justify the changes sought by EchoStar to the Commission's regulatory standards regarding dismissal of incomplete applications or setting a hard deadline on review of applications in advance of public notice. As the SES Comments emphasize, these proposals "are unsupported by any evidence, would impose inappropriate burdens on Commission staff, and would create incentives for applicants to game Commission processes."¹⁵

EchoStar's suggestion that the Commission should abrogate the requirements in Section 25.112(a) that applications be substantially complete lacks any factual basis and would provide *carte blanche* for placeholder applications. Intelsat, like SES, notes that no party has provided any examples in which the current standards have been applied to dismiss an application for minor errors or omissions.¹⁶ The comments here do not cure this defect, as supporters of the EchoStar proposals express concern about the possibility of applications being

will therefore have no effect on the Commission's ongoing ability to address protection of passive scientific observation in satellite network authorizations.

¹⁴ SES Comments at 8-9; CSSMA Comments at 4; EchoStar Comments at 8; Intelsat Comments at 2; Iridium Comments at 2-3; Maxar Comments at 3; OneWeb Comments at 7; Viasat Comments at 11-12.

¹⁵ SES Comments at 6.

¹⁶ Intelsat Comments at 7; SES Comments at 7.

dismissed “for minor mistakes”¹⁷ or based on “obvious ‘foot faults’”¹⁸ but provide not a single example in which an unnecessarily draconian dismissal actually occurred. Thus, the rule changes EchoStar seeks focus on a purely theoretical risk – they represent a solution in search of a problem.

More importantly, the proposed “fix” for this hypothetical danger would create far more serious issues by removing any barrier to the submission of “woefully incomplete” applications filed solely to allow a party to secure and maintain a position in the queue or meet a processing round deadline.¹⁹ EchoStar suggests that applicants should have an absolute right to cure “any errors or omissions” in an application – regardless of their magnitude – within 60 days of a Commission request and provides no response to the Commission’s concerns regarding placeholder applications.²⁰ As SES and Intelsat observe, conferring an unlimited right to supplement an application would sanction regulatory gamesmanship by permitting filers to omit material elements of an application, knowing they would have the opportunity to supply the data later.²¹ Such an approach would seriously undermine the integrity of the Commission’s Part 25 application processes.

The suggestion that any application should be deemed accepted for filing within 30 days unless the Commission staff has requested additional information within that period is similarly ill-considered and would impose unacceptable burdens on Commission staff. As the SES Comments emphasize, imposing a “hard and fast limit” on the review of applications “is

¹⁷ Iridium Comments at 5.

¹⁸ Viasat Comments at 10.

¹⁹ Notice at ¶ 21.

²⁰ EchoStar Comments at 7.

²¹ SES Comments at 7; Intelsat Comments at 7.

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.”²² For example, NGSO processing rounds and the C-band earth station registration deadline have produced significant numbers of applications within a short time period,²³ and the “space month” meeting in November 2018 required staff to prepare nine items for consideration by the Commission, including this Notice. Supporters of the automatic acceptance proposal²⁴ do not explain how, if application review were subject to an arbitrary deadline, Commission staff members could be ensured adequate time to evaluate each application's compliance with relevant Part 25 requirements.

IV. THE COMMISSION SHOULD PURSUE OTHER STREAMLINING MEASURES SUGGESTED BY INTELSAT

SES also urges the Commission to consider a number of additional actions proposed by Intelsat to improve the Part 25 framework.²⁵ In particular, the Commission should:

- Allow addition of satellite points of communication within the coordinated arc specified on an earth station license without the need for filing with the Commission;
- Explicitly permit the substitution of technically consistent earth station terminals under Section 25.118(b);
- Modify Section 312 Schedule B to allow the input of WGS84 coordinates and to make the online form more user-friendly;

²² SES Comments at 8.

²³ *See id.*

²⁴ CSSMA Comments at 3; EchoStar Comments at 7; OneWeb Comments at 7.

²⁵ Intelsat Comments at 7-9.

- Extend the period during which earth station renewal applications can be filed;
- Eliminate emission designators in lieu of specifying carrier bandwidth;
- Delete the requirement to maintain paper copies of applications;
- Modify Section 25.118(e) to allow coordinated operations to continue during drift of a satellite;
- Delete rule provisions that require dismissal of satellite applications seeking a frequency band not allocated internationally for such operations;
- Codify the presumption that satellite operators' fleet configuration decisions are entitled to deference; and
- Revise Section 25.210(j) to allow GSO satellites to operate within 0.1 degrees of their assigned orbital longitude.

These revisions would simplify Commission rules, decrease burdens on applicants and Commission staff, and provide greater regulatory certainty and flexibility for satellite network operators.

V. CONCLUSION

For the foregoing reasons and those set forth in its initial comments, SES urges the Commission to adopt the proposals in the Notice with the modifications discussed herein and to pursue additional measures to streamline the Part 25 regulatory framework.

Respectfully submitted,

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