

July 27, 2015

**FILED ELECTRONICALLY**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Notice of Oral *Ex Parte* Presentation, Comprehensive Review of the Licensing and Operating Rules for Satellite Services, IB Docket No. 12-267**

Dear Ms. Dortch:

On July 23, 2015, representatives of SES Americom, Inc. (“SES”) and EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (collectively, “EchoStar”) met to discuss the above-referenced proceeding with the following International Bureau Staff: Jose Albuquerque, Clay DeCell, Stephen Duall, Chip Fleming, and Diane Garfield. The SES representatives were Kimberly Baum, and Karis Hastings, outside counsel to SES. The EchoStar representatives were Jennifer Manner and Alexander Gerdenitsch.

The purpose of the meeting was to discuss the supplemental materials that SES recently filed in support of its proposal to update the default two-degree spacing power levels by setting the C-band EIRP downlink level at 3 dBW/4kHz and the Ku-band EIRP downlink level at 13 dBW/4kHz.<sup>1</sup> EchoStar supports the SES proposal.<sup>2</sup> SES and EchoStar emphasized that the data presented by SES show that revising the two-degree spacing criteria would promote competition by encouraging coordination discussions between adjacent satellite operators while providing new entrants with reasonable default operating levels pending completion of coordination.

In addition, the parties discussed other aspects of the Commission’s two-degree spacing policies. SES and EchoStar stated their opposition to any change to the Commission’s rules that would block or constrain entry by a new two-degree compliant satellite in order to protect an adjacent satellite whose operations are especially vulnerable to interference (for example, because the service uses small antennas). Instead, the companies argued that in light of the two-degree spacing rules, it is incumbent on a satellite operator to anticipate the possibility of an incoming two-degree neighbor and to assume the risk of a change in the interference environment due to a new entrant that complies with the Commission’s two-degree spacing rules.

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<sup>1</sup> Written *Ex Parte* Presentation of SES Americom, Inc., IB Docket No. 12-267 (filed July 21, 2015). SES takes this opportunity to correct a typographical error in Table 1 attached to its July 21 *ex parte*. Specifically, the table lists Anik F3 twice – once at 118.7° W.L., and once at 107.3° W.L. The first entry is correct: Anik F3 is at 118.7° W.L. The Telesat satellite at 107.3° W.L. is Anik F1R.

<sup>2</sup> Written *Ex Parte* Presentation of EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC, IB Docket No. 12-267 (filed July 21, 2015).

SES and EchoStar argued that granting extra protection to incumbent services would deprive potential new entrants of the certainty that they can commence operations at reasonable baseline operating levels, thereby undermining the pro-competitive and spectrum efficiency objectives of the two-degree spacing framework. Instead, new entry would be subject to an effective veto right by an existing operator making what may well be unwarranted claims about its need for protection. In addition to suppressing new entry, the suggested rule could also be used to prevent a current two-degree neighbor from implementing a reasonable increase in power levels during a normal replacement cycle to take advantage of advances in spacecraft performance. Ultimately, such an ill-defined policy could have the effect of freezing innovation by making it difficult, if not impossible, to increase power levels beyond those in use today. Such an outcome could be particularly limiting for smaller satellite beams that are being deployed in high throughput satellite systems, which necessarily have a higher peak gain.

SES and EchoStar argued that a change in the rules to protect particularly sensitive services is neither justified nor fair. In particular, SES and EchoStar noted that they each offer services today using small antennas and have been able to successfully coordinate those operations in a two-degree spacing environment. SES and EchoStar expressed concern that a change in the policies now would create unwarranted competitive disparities and compromise long-standing Commission policies that enable efficient use of spectrum and orbital resources. They noted that such a rule change would confer an advantage in a handful of situations where a satellite is currently located in a slot without a two-degree neighbor on one or both sides, while operators in densely populated portions of the orbital arc would receive no benefit from the alteration. In addition, the Commission would be rewarding operators who knowingly assumed the risk of future changes in the interference environment at the cost of new entrants. In an environment where all satellite operators are vying for the same customers with the same service requirements, altering Commission policies to create regulatory winners and losers would skew the marketplace significantly.

Apart from the policy issues, SES and EchoStar also questioned the feasibility of devising a rule to protect sensitive, small-dish services. For example, how would the level of protection be established and made known to potential new entrants?<sup>3</sup> In addition, how would the Commission prevent anti-competitive abuses, such as an incumbent operator attempting to thwart any new entry by making exaggerated and unverifiable claims about its protection requirements?

Given these concerns, SES and EchoStar urged the Commission not to pursue a rule change that would deter or prevent entry by new two-degree compliant spacecraft in order to provide enhanced protection for sensitive services.

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<sup>3</sup> DIRECTV has also emphasized the need for procedures to notify prospective neighbors regarding the constraints under which they would have to operate if the Commission were to revise its policies to confer extra protection on sensitive services. *Ex Parte* of DIRECTV, LLC, IB Docket No. 12-267 (filed June 4, 2015) at 1.

Please contact the undersigned if you have any questions.

Respectfully submitted,

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