August 20, 2015

FILED ELECTRONICALLY

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

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

Dear Ms. Dortch:

SES Americom, Inc. ("SES") and EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (collectively, "EchoStar") strongly support Commission action in the above-referenced proceeding to retain and improve the two-degree spacing policy. As SES and EchoStar have explained, two-degree spacing has played and continues to play a critical role in facilitating the introduction of new services at baseline power levels that permit realistic operations pending coordination with adjacent operators.[1]

In a recent *ex parte* letter, Intelsat has continued its self-serving attempts to seek radical modification or even elimination of the two-degree spacing policy.[2] For the reasons set forth below, the Commission should reject the Intelsat arguments.

As a threshold matter, we note that the Intelsat Letter ignores the overwhelming record in support of two-degree spacing and focuses only on a single issue raised by EchoStar.[3] In addition to EchoStar, SES, DIRECTV, Iridium and ViaSat have all urged the Commission to maintain its two-degree spacing policy,[4] but the Intelsat Letter neither mentions these parties nor makes any attempt to respond to the points they have made in support of two-degree

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[1] *See, e.g.,* Notice of Oral *Ex Parte* Presentation of SES Americom, Inc., IB Docket No. 12-267 (filed May 13, 2015); Written *Ex Parte* Presentation of SES Americom, Inc., IB Docket No. 12-267 (filed July 21, 2015) ("July SES Letter"); Notice of Oral *Ex Parte* Presentation of SES Americom, Inc. EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC, IB Docket No. 12-267 (filed July 27, 2015) ("July SES/EchoStar Letter"); Written *Ex Parte* Presentation of EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC, IB Docket No. 12-267 (filed Aug. 4, 2015) ("EchoStar Letter").

[2] Written *Ex Parte* Presentation of Intelsat Corp., IB Docket No. 12-267 (filed Aug. 10, 2015) (the "Intelsat Letter").

[3] Id. at 1 ("Intelsat herein addresses only a single EchoStar allegation").

[4] *See* Joint Comments of SES Americom, Inc. and New Skies Satellites B.V., IB Docket No. 12-267 (filed Jan. 29, 2015) at 3-6; Joint Reply Comments of SES Americom, Inc. and New Skies Satellites B.V., IB Docket No. 12-267 (filed Mar. 2, 2015) ("SES Reply Comments") at 1-6; Comments of DIRECTV, LLC, IB Dkt No. 12-267 (filed Jan. 29, 2015) at 6-7; Comments of Iridium Constellation LLC, IB Docket No. 12-267 (filed Jan. 29, 2015) at 3-4; Reply Comments of ViaSat, Inc., IB Docket No. 12-267 (filed Mar. 3, 2015) at 6-8.

spacing. From the Intelsat Letter, one would think that this issue is solely an Intelsat versus EchoStar dispute, but in fact every commenter other than Intelsat that has addressed the matter has endorsed two-degree spacing.

Even on the narrow issue the Intelsat Letter discusses, it is unpersuasive. Intelsat attempts to refute EchoStar's showing that two-degree spacing better facilitates the development of unused orbital locations than would reliance on ITU coordination procedures. Intelsat claims that "the reverse is true," and in support observes that in recent years there has been significant market entry by operators in regions outside the United States but relatively few satellites licensed by the Commission to operate in previously unoccupied frequencies.[5]

Conveniently, Intelsat ignores the most obvious reason for this numerical imbalance – the fact that robust development of the U.S. arc has left relatively few unused locations available for new satellite entry as compared to other regions. Yet Intelsat has previously acknowledged this very point, noting that in the decades since two-degree spacing was adopted, satellite use of orbital and spectrum resources has "increased exponentially," achieving the policy's goal of increasing "available orbital spectrum for domestic satellites."[6] In short, the comparative numbers Intelsat relies on here in an attempt to question the two-degree spacing policy are actually clear proof of the policy's effectiveness in maximizing efficient use of the domestic arc.

Moreover, Intelsat's focus on the relative quantity of new satellites disregards the essential role of two-degree spacing in ensuring that access to spectrum and orbital resources permits meaningful service to be provided while coordination negotiations are pending. As SES and EchoStar have previously emphasized, this aspect of the policy is critically important because it provides entrants with certainty that they can commence operations at reasonable power levels, rather than being at the mercy of an adjacent operator with ITU priority.[7]

Intelsat's remaining arguments against two-degree spacing are equally untenable. For example, Intelsat argues that "ITU coordination procedures facilitate market entry because they require good faith negotiations between sovereign/operators – even by the senior rights holder."[8] But under the Commission's two-degree spacing policy, there is no "senior rights holder" that must be encouraged to coordinate in good faith with a new entrant. Instead, both existing and new operators have the right to operate at reasonable default levels and have the mutual incentive to reach agreement on any higher levels.

Furthermore, Intelsat's claim that relying on ITU priority would allow U.S. licensees "to better meet the demand for services utilizing small antennas"[9] is unsupported. Intelsat ignores the fact that SES, EchoStar, and others including Intelsat itself have been able to successfully deploy mobility services and other small-antenna offerings under the existing two-degree spacing framework.[10] As SES and EchoStar have previously emphasized, blocking or limiting new two-

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[5] Intelsat Letter at 1.

[6] Comments of Intelsat License LLC, GN Docket No. 14-25 (filed Mar. 31, 2014) at 5-6.

[7] *See, e.g.,* July SES Letter at 1-2; July SES/EchoStar Letter at 1.

[8] Intelsat Letter at 2.

[9] *Id*.

[10] *See, e.g.,* July SES/EchoStar Letter at 2 (SES and EchoStar "each offer services today using small antennas and have been able to successfully coordinate those operations in a two-degree spacing environment"); EchoStar Letter at 2 ("small, low profile antennas can and do function

degree compliant entry in order to protect especially sensitive services would deprive new entrants and existing operators introducing a replacement satellite of the regulatory certainty that they will be able to operate at the default levels prescribed in Commission rules pending coordination.[11] Instead, the Commission would grant a veto right over new neighboring operations to an incumbent based on unverifiable claims about the incumbent's protection requirements.[12] This would contradict the Commission goals on which the two-degree spacing policy is based: promoting competition and ensuring efficient use of spectrum and orbital resources.[13] Instead, the Commission would create competitive imbalances and thwart innovation by constraining parties' ability to introduce new, state-of-the-art services.[14]

Thus, the record clearly demonstrates that two-degree spacing serves the public interest by establishing fair conditions for new entry and encouraging robust use of spectrum and orbital resources. In addition, the record demonstrates that the proposals to modify the two-degree spacing framework by restraining compliant new operations in order to protect especially vulnerable small-antenna services would undermine the policy's pro-competitive objectives.

Please contact the undersigned if you have any questions.

Respectfully submitted,

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successfully in a two-degree environment"); SES Reply Comments at 3 & n.12 (noting that SES, Intelsat, Eutelsat and others provide capacity to support aeronautical services).

[11] July SES/EchoStar Letter at 2.

[12] *Id*.

[13] *Id*.

[14] *Id*.