

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
The Establishment of Policies and	)	
Service Rules for the Broadcasting-Satellite	)	
Service at the 17.3-17.7 GHz Frequency	)	IB Docket No. 06-123
Band and at the 17.7-17.8 GHz Frequency	)	
Band Internationally, and at the 24.75-25.25	)	
GHz Frequency Band for Fixed Satellite	)	
Services Providing Feeder Links to the	)	
Broadcasting-Satellite Service and for the	)	
Satellite Services Operating Bi-directionally	)	
In the 17.3-17.8 GHz Frequency Band	)	

**PETITION FOR RECONSIDERATION OF TELESAT CANADA**

Telesat Canada (“Telesat”), by its attorneys and pursuant to Section 1.106 of the Commission’s rules, hereby petitions for reconsideration of the Report and Order in the above-captioned proceeding (“R&O”).<sup>1</sup>

**INTRODUCTION**

In the R&O, the Commission adopted processing and service rules for the 17/24 GHz Broadcasting-Satellite Service (“17/24 GHz BSS”). These rules include an orbital assignment plan for 17/24 GHz BSS satellites; the plan is comprised of a grid of orbital locations spaced four degrees apart that are identified in Appendix F of the R&O.

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<sup>1</sup> Report and Order, 22 FCC Rcd 8842 (2007) (“R&O”).

The Commission provided in the R&O that an applicant would be permitted to operate from an off-grid location if it could show that “the proposed satellite will not cause any more interference to any 17/24 GHz BSS satellite operating at a location specified in Appendix F, and in compliance with the rules for this service, than if the proposed satellite were positioned precisely at the Appendix F orbital location.”<sup>2</sup> Further, “such applicants must also agree to accept any increased interference that may result from adjacent 17/24 GHz BSS space stations that are operating in compliance with the rules for this service.”<sup>3</sup>

On June 13, 2007, Industry Canada announced that it would award Telesat 17/24 GHz BSS licenses for the following orbital locations: 72.5° W.L., 82° W.L., 86.5° W.L., and 118.7° W.L. Telesat's 17/24 GHz BSS orbital locations all fall between two orbital locations on the U.S. grid, and they all are separated by less than four degrees from orbital locations on the U.S. grid. The distance between Telesat's orbital locations and the closest orbital locations on the grid ranges from 0.3 degrees to 1.5 degrees. Telesat's 17/24 GHz BSS satellites will provide coverage to both Canada and the United States, and Telesat intends to request FCC authority to serve the United States after the Commission's freeze on 17/24 GHz BSS applications has been lifted.

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<sup>2</sup> R&O, ¶ 74.

<sup>3</sup> R&O, ¶ 74.

## DISCUSSION

On September 12, 2007, Telesat filed an *ex parte* letter in this proceeding, a copy of which is attached to this filing. Telesat demonstrated in the letter that it would be inconsistent with the Commission's rules and Commission precedent to apply the "no more interference/accept interference" standard to a non-U.S. licensed 17/24 GHz BSS satellite operator that has ITU date priority. Telesat requested, therefore, that the Commission attach explicit conditions to any 17/24 GHz BSS license grant making the grant subject to the licensee coordinating with satellite operators having ITU date priority and making the orbital location specified in the grant subject to modification to an off-grid location if necessary to facilitate coordination with a satellite operator having ITU date priority.

As discussed in Telesat's letter, various parties have made *ex parte* filings expressing differing views as to whether it is in the public interest to permit departures from the Appendix F grid to facilitate international coordination. Although EchoStar Satellite L.L.C. ("EchoStar") has advanced a plan that would permit deviating from the grid by up to one degree,<sup>4</sup> DirecTV and SES Americom have taken a contrary view.<sup>5</sup>

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<sup>4</sup> See Letter from Linda Kinney to Marlene H. Dortch (July 20, 2007) ("EchoStar July 20 letter").

<sup>5</sup> See, e.g., Letter from William M. Wiltshire, counsel for DIRECTV, to Marlene H. Dortch, FCC (July 2, 2007), at 4; Letter from Peter A. Rohrbach and Karis A. Hastings, counsel for SES Americom, to Marlene H. Dortch, FCC (July 10, 2007), at 1.

As also stated in Telesat's *ex parte* letter, Telesat is concerned that, in light of the conflicting views expressed by the parties, there may be confusion among the 17/24 GHz BSS applicants as to their international coordination responsibilities once their applications have been granted. To clarify matters, Telesat continues to believe that the best course would be to adopt, at the time of grant, the conditions that Telesat has proposed. In the event that clarifying conditions are not adopted at the time of grant, however, then the Commission, on reconsideration, should clarify that departures from the grid, along the lines suggested in Telesat's *ex parte* letter, are permitted to facilitate international coordination.

EchoStar also has made a proposal for flexibility in application of the four-degree grid.<sup>6</sup> EchoStar's proposal "would allow applicants to operate indefinitely up to 1° 'off-slot' on a first-come, first-served basis at full power and interference protection."<sup>7</sup> The proposal would provide added flexibility for BSS operators seeking to use 12/17 GHz ITU Region 2 Plan BSS frequencies and 17/24 GHz BSS frequencies to serve customers via a single dish. EchoStar also has recognized that "[t]he 1° flexibility proposal ... addresses some of the concerns raised by international providers, which may require additional flexibility to protect current operations and/or integrate service with existing or

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<sup>6</sup> See, e.g., Letter from Bradley K. Gillen to Marlene H. Dortch (Sept. 20, 2007); Letter from Linda Kinney to Marlene H. Dortch (May 25, 2007); EchoStar July 20 letter.

<sup>7</sup> EchoStar July 20 letter at 2.

planned facilities operating from non-U.S. orbital locations that do not align with the U.S. 4 degree orbital band plan.”<sup>8</sup>

Telesat generally supports EchoStar’s proposal, because the resulting additional flexibility potentially could resolve international coordination issues at orbital locations that are of concern to Telesat.<sup>9</sup> In some cases, however, a one degree change may be insufficient for international coordination purposes. For example, in Telesat’s case, one of the four 17/24 GHz orbital positions for which it has been authorized, at 72.5° W.L., will be 1.5° away from the nearest FCC grid position. In the event that EchoStar’s proposal is adopted, therefore, departures from the 17/24 GHz BSS grid of more than one degree should be permitted if needed to facilitate international coordination.

Respectfully submitted,

By: /s/ Joseph A. Godles  
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Its Attorneys

September 28, 2007

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<sup>8</sup> *Id.*

<sup>9</sup> On September 26, 2007, Telesat filed an *ex parte* letter in this proceeding in which it expressed general support for EchoStar’s position. See Letter from Paul Bush, Telesat, to Marlene H. Dortch, Secretary, FCC.

**ATTACHMENT: *EX PARTE* LETTER DATED SEPTEMBER 12, 2007**



Telesat Canada  
1601 Telesat Court  
Gloucester, Ontario  
K1B 5P4

Paul D. Bush  
Vice President,  
Broadcasting & Corporate Development

September 12, 2007

**FILED ELECTRONICALLY**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th St., S.W.  
Washington, DC 20554

**Re: IB Docket No. 06-123**  
***Ex Parte***

Dear Ms. Dortch:

In a Report and Order (“R&O”) in the above-referenced proceeding, the Commission adopted processing and service rules for the 17/24 GHz Broadcasting-Satellite Service (the “17/24 GHz BSS”).<sup>1</sup> These rules include an orbital assignment plan for 17/24 GHz BSS satellites; the plan is comprised of a grid of orbital locations spaced four degrees apart that are identified in Appendix F of the R&O.<sup>2</sup> The Commission stated that it would permit 17/24 GHz BSS applicants to deviate from the grid upon an appropriate showing.<sup>3</sup>

Following the release of the R&O, Telesat Canada (“Telesat”) submitted an *ex parte* filing addressing whether it would be in the public interest to permit departures from the grid in order to facilitate international coordination.<sup>4</sup> Several other parties subsequently submitted their views. Telesat is concerned that, in light of the conflicting views expressed by the parties,<sup>5</sup> there

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<sup>1</sup> FCC 07-76 (May 4, 2007).

<sup>2</sup> *Id.* ¶¶ 70-73.

<sup>3</sup> *Id.* ¶ 74.

<sup>4</sup> See letter, dated June 20, 2007, from Henry Goldberg and Joseph A. Godles, counsel for Telesat, to Marlene H. Dortch, FCC, attachment at 6-7.

<sup>5</sup> See letter dated July 2, 2007, from William M. Wiltshire, counsel for DIRECTV, to Marlene H. Dortch, FCC, at 4 (asserting that permitting departures from the grid to facilitate international coordination would make the Commission “complicit” in undermining orbital efficiency); letter, dated July 10, 2007, from Peter A. Rohrbach and Karis A. Hastings, counsel for SES Americom, to Marlene H. Dortch, FCC, at 1 (expressing the view that deviation from the grid generally is prohibited unless the off-grid satellite “does not cause increased interference ... and accepts any additional interference received”); letter, dated July 20, 2007, from Linda Kinney, Vice President, Law and Regulation, EchoStar, to Marlene H. Dortch, FCC, at 2 (maintaining that permitting departures of up to one degree from the grid would address the need for flexibility to accommodate “non-U.S. orbital locations that do not align with the U.S. 4 degree orbital band plan”).

may be confusion among the 17/24 GHz BSS applicants as to their international coordination responsibilities, once their applications have been granted.

To prevent confusion, Telesat urges the Commission to include two related conditions in each grant. The first condition would make the grant subject to the licensee coordinating with satellite operators having International Telecommunication Union (“ITU”) date priority. The second condition would make the orbital location specified in the grant subject to modification to an off-grid location if necessary to facilitate coordination with a satellite operator having ITU date priority. Telesat demonstrates herein that including these conditions, in addition to being necessary to prevent confusion, is warranted under the Commission’s rules and Commission precedent.

### **1. Interest of Telesat**

Telesat is one of the world’s pioneers in satellite communications and systems management and the leading satellite service provider in Canada. Telesat operates a fleet of Fixed Satellite Service and Broadcasting-Satellite Service satellites that provide a wide range of services to users across North America.

On June 13, 2007, Industry Canada announced that it would award Telesat 17/24 GHz BSS licenses for the following orbital locations: 72.5° W.L., 82° W.L., 86.5° W.L., and 118.7° W.L. Telesat’s 17/24 GHz BSS orbital locations all fall between two orbital locations on the U.S. grid, and they all are separated by less than four degrees from orbital locations on the U.S. grid. The distance between Telesat’s orbital locations and the orbital locations on the grid ranges from 0.3 degrees to 3.5 degrees.

Telesat’s 17/24 GHz BSS satellites will provide coverage to both Canada and the United States, and Telesat intends to request FCC authority to serve the United States after the Commission’s freeze on 17/24 GHz BSS applications has been lifted. Telesat believes, based on its analysis of filings at the ITU, that the Canadian filings at the orbital locations for which it has been licensed will likely have ITU priority over the closest United States’ filings in the timeframe of interest. Under the ITU’s coordination procedures, it will be incumbent on U.S. operators with lower date priority to coordinate with Telesat Canada.

### **2. Discussion**

#### **a. Off-grid orbital assignments under the R&O**

In the R&O, the Commission recognized that “it may not be possible to locate a 17/24 GHz BSS satellite precisely at some of the orbital locations specified in [the] Appendix F [grid].”<sup>6</sup> The Commission gave two examples of why it might not be possible to locate a 17/24 GHz BSS satellite on the grid: there could be “undesirable operational constraints required to coordinate physical operations with co-located satellites” or there could be “a DBS or other ITU

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<sup>6</sup> R&O, ¶ 74.

Region 2 BSS satellite receiving feeder-link signals in the 17.3-17.8 GHz band at or very near that location.”<sup>7</sup>

To address such circumstances, the Commission provided that an applicant would be permitted to operate from an off-grid location if it could show that “the proposed satellite will not cause any more interference to any 17/24 GHz BSS satellite operating at a location specified in Appendix F, and in compliance with the rules for this service, than if the proposed satellite were positioned precisely at the Appendix F orbital location.”<sup>8</sup> Further, “such applicants must also agree to accept any increased interference that may result from adjacent 17/24 GHz BSS space stations that are operating in compliance with the rules for this service.”<sup>9</sup>

The R&O does not explicitly address whether the “no more interference/accept interference” standard applies to a non-U.S. licensed 17/24 GHz BSS satellite operator that has ITU date priority and that has been assigned by its licensing administration an orbital location less than four degrees from an orbital location on the U.S. grid. If the “no more interference/accept interference” standard were to apply in these circumstances, however, the requirement would conflict with the Commission’s rules and Commission precedent.

#### **b. Commission rules and Commission precedent**

“[A]ll U.S.-licensed satellites ... must be coordinated in accordance with the International Telecommunication Union (ITU) Radio Regulations with all affected administrations.”<sup>10</sup> Under the Commission’s rules, if a U.S. licensee has not completed coordination with a non-U.S. operator that has ITU date priority, then the U.S. licensee is not entitled to interference protection. Section 25.111(b) of the rules, which implements U.S. responsibilities as an ITU member, states as follows:

No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be subject to additional terms and conditions as required to effect coordination of the frequency assignments with other Administrations.

It would be inconsistent with Section 25.111(b) to apply the “no more interference/accept interference” standard to a non-U.S. licensed 17/24 GHz BSS satellite operator that has ITU date priority. Instead of giving interference protection to the non-U.S. licensed operator, as the rule mandates, applying the “no more interference/accept interference” standard would mean that an

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<sup>7</sup> R&O, ¶ 74.

<sup>8</sup> R&O, ¶ 74.

<sup>9</sup> R&O, ¶ 74.

<sup>10</sup> *Loral Orion Services, Inc.*; 15 FCC Rcd 12419, 12421 (Int’l Bur. 2000).

off-grid non-U.S. licensed operator with ITU date priority would have to provide interference protection to an on-grid U.S. licensee: The non-U.S. operator, notwithstanding its ITU date priority, would have to show it would cause no more interference to the on-grid licensee's satellite than it would if the non-U.S. operator were four degrees away, and it would have to accept interference from the on-grid licensee's satellite. Section 25.111(b) precludes this outcome.<sup>11</sup>

Applying the "no more interference/accept interference" standard to a non-U.S. licensed 17/24 GHz BSS satellite operator that has ITU date priority also would conflict with Commission precedent. In 1999, the International Bureau was faced with mutually exclusive claims to operating a Ku-band satellite in the orbital arc between 12° W.L. and 12.5° W.L. Loral Orion, which had been granted conditional authority for a satellite at 12° W.L. under the Commission's "separate systems" policy, was seeking final authority to launch and operate. Eutelsat, which opposed Loral Orion's application, already was operating a satellite at 12.5° W.L. that had ITU date priority. Given that Loral Orion's satellite was likely to cause interference to Eutelsat's satellite at 0.5° spacing, the Bureau, applying Section 25.111(b), declined to authorize Loral Orion to operate its satellite on a commercial basis.<sup>12</sup> After the Bureau's decision was released, Loral Orion and Eutelsat entered into a coordination agreement under which Loral Orion changed its requested orbital assignment to 15° W.L., and the Bureau authorized Loral Orion to operate its satellite at that orbital location.<sup>13</sup>

Under Section 25.111(b) and the Loral Orion precedent, therefore, an on-grid U.S. licensee should be required to coordinate pursuant to the ITU Radio Regulations with an off-grid operator with ITU date priority that has been licensed by another administration. Permitting changes in orbital location to facilitate such international coordination is in the public interest, because "[f]acilitating resolution of ... international coordination disputes enables licensees to bring their satellites into service more quickly."<sup>14</sup> Accordingly, if a U.S. 17/24 GHz BSS licensee needs to change to an off-grid location to facilitate coordination, the Commission should, consistent with longstanding policies, endeavor to accommodate the change.

### Conclusion

Based on the *ex parte* filings submitted in this proceeding, it appears that some of the U.S. applicants for 17/24 GHz BSS believe that the "no more interference/accept interference" standard applies to non-U.S. licensees that have ITU date priority. For the reasons stated above, however, it would be inconsistent with the Commission's rules and Commission precedent to apply the standard to non-U.S. licensees. Unless the Commission clarifies this aspect of the R&O, U.S. applicants may not be clear regarding their coordination obligations, with the resulting risk that the U.S. licensees will not coordinate their satellites properly and thus risk violating section 25.111(b).

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<sup>11</sup> See R&O, ¶ 74.

<sup>12</sup> *Loral Orion Services, Inc.*; 14 FCC Rcd 17665 (1999).

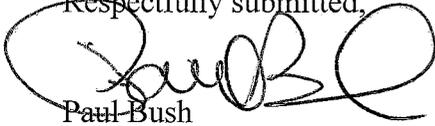
<sup>13</sup> *Loral Orion Services, Inc.*; 15 FCC Rcd 12419 (2000).

<sup>14</sup> *Loral Orion Services, Inc.*; 15 FCC Rcd at 12421 ¶ 4. See also *id.* n.12 and cases cited therein.

Marlene H. Dortch  
September 12, 2007  
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The Commission should resolve this uncertainty by attaching explicit conditions to any 17/24 GHz BSS license grant making the grant subject to the licensee coordinating with satellite operators having ITU date priority and making the orbital location specified in the grant subject to modification to an off-grid location if necessary to facilitate coordination with a satellite operator having ITU date priority.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul Bush", written over the text "Respectfully submitted,".

Paul Bush

cc: Helen Dominici  
Rod Porter  
Gardner Foster  
Robert Nelson  
Cassandra Thomas  
Karl Kensinger  
Chip Fleming  
Louise Klees-Wallace