

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**FILED/ACCEPTED  
AUG - 1 2008**  
Federal Communications Commission  
Office of the Secretary

In the Matter of	)	
	)	
DIRECTV ENTERPRISES, LLC	)	Call Signs S2242 (File Nos. SAT-LOA-19970605-
	)	00049 <i>et al.</i> ), S2243 (File Nos. SAT-LOA-19970605-
	)	00050 <i>et al.</i> ), S2244 (File Nos. SAT-LOA-19970605-
	)	00051 <i>et al.</i> ), S2711 (File Nos. SAT-LOA-20060908-
	)	00099 <i>et al.</i> ) & S2712 (File Nos. SAT-LOA-
	)	20060908-00100 <i>et al.</i> )
	)	
EchoStar Satellite Operating L.L.C.	)	Call Signs S2440 (File Nos. SAT-LOA-20020328-
	)	00050 <i>et al.</i> ), S2441 (File Nos. SAT-LOA-20020328-
	)	00051 <i>et al.</i> ), S2442 (File Nos. SAT-LOA-20020328-
	)	00052 <i>et al.</i> ), S2723 (File Nos. SAT-LOA-20070105-
	)	00001 <i>et al.</i> ) & S2725 (File Nos. SAT-LOA-20070105-
	)	00003 <i>et al.</i> )
	)	
Intelsat North America LLC	)	Call Signs S2659 (File Nos. SAT-LOA-20050210-
	)	00028 <i>et al.</i> ), S2660 (File Nos. SAT-LOA-20050210-
	)	00029 <i>et al.</i> ), S2661 (File Nos. SAT-LOA-20050210-
	)	00030 <i>et al.</i> ) & S2662 (File Nos. SAT-LOA-20050210-
and	)	00031 <i>et al.</i> )
	)	
Pegasus Development DBS Corporation	)	Call Signs S2698 (File Nos. SAT-LOA-20060412-
	)	00042 <i>et al.</i> ), S2699 (File Nos. SAT-LOA-20060412-
Applications for Authority to Launch	)	00043 <i>et al.</i> ) & S2700 (File Nos. SAT-LOA-20060412-
and Operate 17/24 GHz Broadcasting-	)	00044 <i>et al.</i> )
Satellite Service Space Stations	)	

**COMMENTS OF SES AMERICOM, INC.**

SES Americom, Inc. (“SES Americom”), by its attorneys and pursuant to Section 25.154 of the Commission’s Rules, 47 C.F.R. § 25.154, hereby submits its comments on the above-captioned applications of DIRECTV ENTERPRISES, LLC (“DIRECTV”), EchoStar Satellite Operating L.L.C. (“EchoStar”), Intelsat North America LLC (“Intelsat”), and Pegasus Development DBS Corporation (“Pegasus”) for Commission licenses to launch and operate new space stations in the 17/24 GHz Broadcasting-Satellite Service (“BSS”) (collectively, the “BSS

Applications”).<sup>1</sup> In acting on the BSS Applications, the Commission should remind the applicants that, consistent with long-standing law and policy, any authority granted is subject to the outcome of international coordination.

SES Americom has been active in the Commission’s proceedings to adopt rules for 17/24 GHz BSS, supporting policies that will facilitate the introduction of additional video service delivery options for U.S. consumers. SES Americom has emphasized that its business plans include the deployment of 17/24 GHz spacecraft to serve the U.S., and we have urged the Commission to ensure that new entrants can compete with DBS incumbents on a level playing field.<sup>2</sup>

SES Americom is moving forward with its plans to build spacecraft with 17/24 GHz payloads. Once the current freeze is lifted, SES Americom plans to seek authority to serve the U.S. using 17/24 GHz spectrum. Our facilities will provide the framework for additional competition in the direct-to-premise distribution of video and other services, to the great benefit of U.S. consumers.

In that regard, SES Americom will be requesting U.S. market access for satellites that will operate pursuant to non-U.S. authorizations under standard Commission policies. Those policies conform to international coordination obligations applicable to all International Telecommunication Union (“ITU”) member countries. Consistent with those policies, the Commission should state explicitly in any licenses granted pursuant to the BSS Applications that absent successful coordination, the licensees are not entitled to interference protection from systems licensed by an administration with ITU priority. In addition, the Commission should make

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<sup>1</sup> Appendix 1 hereto contains a complete listing of the call signs and file numbers of the BSS Applications.

<sup>2</sup> See, e.g., Comments of SES Americom, Inc., IB Dkt No. 06-123 (filed Oct. 16, 2006) at 2, 5-9; Reply Comments of SES Americom, Inc., IB Dkt No. 06-123 (filed Nov. 15, 2006) at 6, 12-14.

clear that a licensee's authority to operate is dependent on the outcome of coordination under ITU policies.

As SES Americom has previously observed, the coordination requirements and procedures specified in the ITU Radio Regulations have the force of treaty and apply to Commission licensees as a matter of law, whether a license includes a specific coordination condition or not.<sup>3</sup> The Commission has recognized that “[t]he United States is under a treaty obligation, in connection with its membership in the ITU, to coordinate all U.S. authorized satellite services internationally.”<sup>4</sup> The obligation to coordinate is also codified in Section 25.111 of its rules, which provides that:

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. 47 C.F.R. §25.111(b).

This rule is referenced in the standard conditions that are typically included in a satellite license grant.<sup>5</sup>

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<sup>3</sup> See Comments of SES Americom, Inc. on Petition for Reconsideration of Telesat Canada, IB Dkt No. 06-123, filed Feb. 11, 2008 at 3-5.

<sup>4</sup> *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 12 FCC Rcd 22310, 22335 (1997).

<sup>5</sup> See, e.g., File No. SAT-LOA-20070314-00051, granted July 18, 2007, at ¶ 5.

When it adopted the first-come, first-served licensing process for geostationary satellites, the Commission reiterated its policy that licenses granted are subject to the outcome of international coordination:

The Commission is not responsible for the outcome of any particular satellite coordination and does not guarantee the success or failure of the required international coordination. Moreover, we expect U.S. licensees to abide by international regulations when their systems are coordinated. This may mean that the U.S. licensee may not be able to operate its system if the coordination cannot be appropriately completed. Indeed, with the first-come, first served approach, we assign applicants to the orbit location that is requested. Consequently, the applicant assumed the coordination risk when choosing that particular orbit location at the time it submitted its application.<sup>6</sup>

This is the licensing framework for processing of the instant BSS Applications.

The Commission has expressly applied these coordination policies in the BSS context. For example, EchoStar's application for a new DBS license at the 86.5° W.L. orbital location was granted subject to express conditions relating to coordination pursuant to ITU requirements.<sup>7</sup> Absent coordination, EchoStar was prohibited from exceeding the applicable interference limits with respect to affected operators. In addition, until the successful completion of coordination, EchoStar was required to notify its customers that its operations were subject to coordination with other networks and that EchoStar might be required to modify or discontinue services to conform to coordination agreements. *Id.* at ¶ 28.

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<sup>6</sup> *Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760 (2003) at ¶ 96 (footnotes omitted). *See also id.* at ¶ 295 (FCC can license operations on a temporary basis at an orbit location where another Administration has ITU priority, but makes such grants subject to the outcome of international coordination).

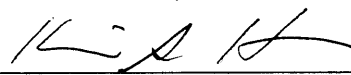
<sup>7</sup> *EchoStar Satellite L.L.C., Application to Construct, Launch and Operate a Direct Broadcast Satellite at the 86.5° W.L. Orbital Location*, Order and Authorization, DA 06-2440, 21 FCC Rcd 14045 (IB 2006).

Any grants of the BSS Applications here are subject to similar conditions as a matter of law. As discussed above, the obligation to comply with ITU coordination rules and procedures will apply to any licenses granted, whether conditions to that effect are included or not. However, as the Commission has recently observed, including conditions in the applicable authorization, even when the underlying policy is clear, serves the public interest by “removing any uncertainty as to the applicability of Commission policy” in an individual case.<sup>8</sup>

Accordingly, SES Americom requests that any grants of the above-captioned BSS Applications of DIRECTV, EchoStar, Intelsat, and Pegasus include an express reminder of international coordination requirements. Specifically, the licensees should be advised that unless coordination is completed, they are not entitled to interference protection from networks operating pursuant to ITU filings with date priority. The licensees should also be notified that absent successful international coordination, their operations may have to be modified or terminated to accommodate a network with priority, and they should be required to make a disclosure to that effect to their customers.

Respectfully submitted,

**SES AMERICOM, INC.**

By:   
Peter A. Rohrbach  
Karis A. Hastings  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004  
(202) 637-5600

Nancy J. Eskenazi  
Vice President &  
Assoc. General Counsel  
SES Americom, Inc.  
Four Research Way  
Princeton, NJ 08540

August 1, 2008

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<sup>8</sup> *Star One S.A., Petition for Declaratory Ruling to Add the Star One C5 Satellite at 68° W.L. to the Permitted Space Station List, Order on Reconsideration, DA 08-1645 (Sat. Div., rel. July 14, 2008) at ¶ 5.*

**APPENDIX 1: BSS APPLICATIONS**

**DIRECTV Applications**

Call Sign	File Numbers
S2242	SAT-LOA-19970605-00049; SAT-AMD-20051118-00226; SAT-AMD-20080114-00015; & SAT-AMD-20080321-00078
S2243	SAT-LOA-19970605-00050; SAT-AMD-20051118-00225; SAT-AMD-20080114-00016; & SAT-AMD-20080321-00079
S2244	SAT-LOA-19970605-00051; SAT-AMD-20051118-00224; SAT-AMD-20080114-00017; & SAT-AMD-20080321-00080
S2711	SAT-LOA-20060908-00099; SAT-AMD-20080114-00013; & SAT-AMD-20080321-00076
S2712	SAT-LOA-20060908-00100; SAT-AMD-20080114-00014; & SAT-AMD-20080321-00077

**EchoStar Applications**

Call Sign	File Numbers
S2440	SAT-LOA-20020328-00050; SAT-AMD-20051118-00247; SAT-AMD-20080114-00018; & SAT-AMD-20080213-00044
S2441	SAT-LOA-20020328-00051; SAT-AMD-20051118-00246; SAT-AMD-20080114-00019; & SAT-AMD-20080213-00042
S2442	SAT-LOA-20020328-00052; SAT-AMD-20051118-00245; SAT-AMD-20080114-00020; & SAT-AMD-20080213-00043
S2723	SAT-LOA-20070105-00001; & SAT-AMD-20080114-00021
S2725	SAT-LOA-20070105-00003; SAT-AMD-20080114-00022; & SAT-AMD-20080213-00045

**Intelsat Applications**

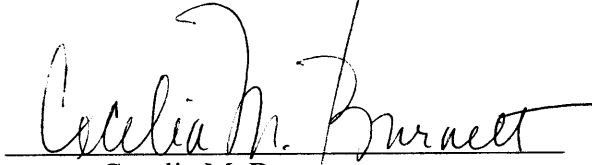
Call Sign	File Numbers
S2659	SAT-LOA-20050210-00028; SAT-AMD-20051118-00241; SAT-AMD-20080114-00011; SAT-AMD-20080617-00126; & SAT-AMD-20080701-00134
S2660	SAT-LOA-20050210-00029; SAT-AMD-20051118-00240; SAT-AMD-20080114-00012; SAT-AMD-20080617-00125; & SAT-AMD-20080701-00135
S2661	SAT-LOA-20050210-00030; SAT-AMD-20051118-00239; SAT-AMD-20080114-00009; SAT-AMD-20080617-00124; & SAT-AMD-20080701-00137
S2662	SAT-LOA-20050210-00031; SAT-AMD-20051118-00238; SAT-AMD-20080114-00008; SAT-AMD-20080617-00123; & SAT-AMD-20080701-00138

Pegasus Applications

Call Sign	File Numbers
S2698	SAT-LOA-20060412-00042; SAT-AMD-20080114-00025; & SAT-AMD-20080118-00029
S2699	SAT-LOA-20060412-00043; & SAT-AMD-20080114-00024
S2700	SAT-LOA-20060412-00044; & SAT-AMD-20080114-00023

**CERTIFICATE OF SERVICE**

I, Cecelia Burnett, hereby certify that on this 1st day of August, 2008, I caused to be served copies of the foregoing "Comments of SES Americom, Inc." on the following parties by first-class U.S. mail, postage prepaid:

  
Cecelia M. Burnett

William Wiltshire  
Harris, Wiltshire & Grannis LLP  
1200 18th Street, N.W.  
Washington, DC 20036  
*Counsel to DIRECTV ENTERPRISES, LLC*

Pantelis Michalopoulos  
Steptoe & Johnson LLP  
1330 Connecticut Ave., N.W.  
Washington, DC 20036  
*Counsel to EchoStar Satellite Operating L.L.C.*

Susan H. Crandall  
Intelsat Corporation  
3400 International Drive, N.W.  
Washington, DC 20008-3006  
*Counsel to Intelsat North America LLC*

Tony Lin  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, N.W.  
Washington, DC 20037  
*Counsel to Pegasus Development DBS Corporation*