

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

FILED/ACCEPTED
AUG 26 2008
Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
DIRECTV Enterprises, LLC	)	Call Signs S2242 (File Nos. SAT-LOA-
	)	19970605-00049; SAT-AMD-20051118-
	)	00226; SAT-AMD-20080114-00015; & SAT-
	)	AMD-20080321-00078)
	)	and S2712 (File Nos. SAT-LOA-20060908-
	)	00100; SAT-AMD-20080114-00014; & SAT-
	)	AMD-20080321-00077)
)	
EchoStar Satellite Operating L.L.C.	)	Call Sign S2442 (File Nos. SAT-LOA-
	)	20020328-00052; SAT-AMD-20051118-
	)	00245; SAT-AMD-20080114-00020; & SAT-
	)	AMD-20080213-00043)
)	
Intelsat North America LLC	)	Call Sign S2662 (File Nos. SAT-LOA-
	)	20050210-00031; SAT-AMD-20051118-
	)	00238; SAT-AMD-20080114-00008; SAT-
and	)	AMD-20080617-00123; & SAT-AMD-
	)	20080701-00138)
)	
Pegasus Development DBS Corporation	)	Call Signs S2698 (File Nos. SAT-LOA-
	)	20060412-00042; SAT-AMD-20080114-
Applications for Authority to Launch and	)	00025; & SAT-AMD-20080118-00029)
Operate 17/24 GHz Broadcasting-Satellite	)	and S2699 (File Nos. SAT-LOA-20060412-
Service Space Stations	)	00043; & SAT-AMD-20080114-00024)

REPLY OF CIEL SATELLITE LIMITED PARTNERSHIP

Ciel Satellite Limited Partnership (“Ciel”), pursuant to Section 25.154 of the Commission’s Rules, 47 C.F.R. § 25.154, hereby submits its reply to the response of DIRECTV Enterprises, LLC (“DIRECTV”)¹ to Ciel’s comments relating to the above-captioned applications of DIRECTV, EchoStar Satellite Operating L.L.C. (“EchoStar”), Intelsat North

¹ Response of DIRECTV Enterprises, LLC, File Nos. SAT-LOA-19970605-00049 *et al.*, filed Aug. 14, 2008 (“DIRECTV Response”).

America LLC (“Intelsat”), and Pegasus Development DBS Corporation (“Pegasus”).² The applications seek Commission licenses to launch and operate new space stations in the 17/24 GHz Broadcasting-Satellite Service (“BSS”) at or near the 91° W.L., 103° W.L., and 107° W.L. orbital locations.

In its Comments, Ciel requested that any license grants issued by the Commission in response to these applications include an express condition relating to the licensee’s obligation to comply with international coordination requirements. We explained that imposition of such a condition was consistent with Commission precedent and International Telecommunication Union (“ITU”) regulations, and was needed to protect spectrum rights Ciel has been awarded by Industry Canada.

Ciel is Canada’s first competitive satellite service provider, and Industry Canada recently issued Approvals in Principle (“AIPs”) to Ciel for new BSS and FSS deployments at several orbital locations, including rights to develop the 17/24 GHz BSS spectrum at 91° W.L., 103° W.L., and 107.3° W.L. As Ciel has noted, these locations align with positions identified by the Commission for 17/24 GHz service within the one degree flexibility authorized in the *Reconsideration Order* in the rulemaking proceeding relating to 17/24 GHz BSS.³ Canada has

² Comments of Ciel Satellite Limited Partnership, File Nos. SAT-LOA-19970605-00049 *et al.*, filed Aug. 1, 2008 (“Ciel Comments”).

³ *The Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3-17.7 GHz Frequency 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*, Order on Reconsideration, IB Dkt No. 06-123, 22 FCC Rcd 17951 (2007) (“*Reconsideration Order*”).

submitted ITU filings for the 17/24 GHz BSS spectrum at these locations, and those filings have date priority that is equal or superior to any applicable U.S. filings at those orbital positions.⁴

Pursuant to this authority, Ciel will be building and launching the next generation of Canadian telecommunications satellites to bring high quality digital television and broadband services to homes and businesses throughout North America. Consistent with the specifications in the applicable Canadian ITU filings, Ciel intends to deploy satellites that will allow coverage of both Canada and the U.S. and will seek U.S. market access pursuant to Commission policies.

Ciel asked the Commission to condition any U.S. licenses granted here in order to ensure that the licensees are aware of their obligations to coordinate with Ciel under ITU regulations. We noted that the Commission has previously imposed such conditions when granting U.S. BSS licenses, citing a decision in which EchoStar was granted authority in the 12/17 GHz BSS bands subject to the outcome of coordination and was required to advise its customers that service might have to be discontinued or altered as a result of coordination agreements with other operators.⁵

DIRECTV was the only applicant to object to Ciel's request, and DIRECTV provides no justification for the Commission to depart from its own precedent here. DIRECTV claims that the Commission decided in the *Reconsideration Order* that it would not impose a coordination condition in 17/24 GHz licenses. DIRECTV Response at 1-2. In fact, however, no

⁴ See Ciel Comments at 2. Specifically, the Canadian filings at 103° W.L. have date priority under ITU rules. At 91° W.L. and 107.3° W.L., the Canadian ITU filings have equal priority with U.S. ITU filings. Both countries' filings will expire in April 2009 if they are not brought into use by then, and Canada has another set of filings that will have priority following April 2009 if the first set of Canadian and U.S. filings expires.

⁵ Ciel Comments at 3, citing *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) at ¶ 28.

such holding appears in that decision. In the portion of the *Reconsideration Order* that restates the arguments made by the parties, there is a reference to Telesat Canada's request for imposition of coordination conditions. *Reconsideration Order* at ¶ 7. However, the discussion sections of the decision do not mention international coordination matters at all. Thus, there is no basis for DIRECTV's assertion that the *Reconsideration Order* reflects a substantive Commission determination regarding these issues.

DIRECTV also argues that the Commission must protect the integrity of its orbital spacing plan for the 17/24 GHz band and prevent foreign licensees from being in a position to "trump" the U.S. licensing process. *Id.* at 3-4. DIRECTV does not explain how inclusion of conditions reminding U.S. licensees of their coordination obligations would have such an effect. To the contrary, imposition of such conditions simply makes clear to the licensee that grant of a Commission license does not "trump" the ITU coordination rules or the rights of other Administrations such as Canada to implement their own procedures for licensing operators in the 17/24 GHz band. DIRECTV's concerns about orbital spacing are not relevant here in any event, because as discussed above, the 17/24 GHz orbital locations assigned to Ciel by Industry Canada are consistent with the Commission's rules.

DIRECTV also observes that in order to obtain authority to provide U.S. services, foreign licensees must make a showing pursuant to the ECO-Sat test. DIRECTV Response at 5. Ciel is aware of the Commission requirements and will comply with them when it makes its market access requests. The Commission has repeatedly authorized U.S. BSS and direct-to-home services by DIRECTV and others using Canadian-licensed facilities,⁶ and Ciel will

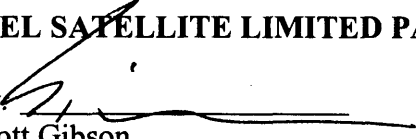
⁶ See, e.g., *DIRECTV Enterprises, LLC*, 19 FCC Rcd 15529 (Sat. Div. 2004) (authorizing provision of BSS service to the U.S. using DIRECTV 5 pursuant to Canadian license); *EchoStar Satellite LLC*, 20 FCC Rcd 11755 (Sat. Div. 2005) (authorizing use of EchoStar 5 BSS satellite

demonstrate that U.S. customers will similarly benefit from the introduction of competitive service offerings using Ciel's spacecraft.

In sum, DIRECTV has provided no valid objection to the inclusion of coordination conditions in any licenses granted here.

Respectfully submitted,

CIEL SATELLITE LIMITED PARTNERSHIP

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to serve the U.S. pursuant to an agreement with Ciel under Canadian license); *EchoStar Satellite LLC*, 20 FCC Rcd 20083 (IB 2005) (authorizing use of Canadian-licensed Anik F3 satellite for U.S. direct-to-home service); *SES Americom, Inc. and EchoStar Satellite LLC*, 21 FCC Rcd 3430 (IB 2006) (authorizing use of AMC-16 pursuant to Canadian license for U.S. direct-to-home service).

CERTIFICATE OF SERVICE


I, Scott Gibson, hereby certify that on this 26th day of August, 2008, I caused to be served a true copy of the foregoing "Reply of Ciel Satellite Limited Partnership" by first class mail, postage prepaid, upon the following:

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