

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

In the Matter of)	
)	
DIRECTV Enterprises, LLC)	File No. SAT-A/O-20120817-00137
)	Call Sign S2369
Application as Amended for)	File Nos. SAT-AMD-20120824-00142 &
Authorization to Operate)	SAT-AMD-20120913-00148
DIRECTV 1R at 55.8° E.L.)	Call Sign S2872

REPLY OF NEW SKIES SATELLITES B.V.

New Skies Satellites B.V. (doing business as “SES”) hereby submits its reply to the filings of DIRECTV Enterprises, LLC (“DIRECTV”)¹ and the Russian Satellite Communications Company (“RSCC”)² regarding the above-captioned application for Commission authority to operate DIRECTV 1R at 55.8° E.L.³ As SES explained in its comments,⁴ any grant of the DIRECTV 1R Application must include specific conditions to ensure that operation of DIRECTV 1R conforms to Commission rules and international policies.

BACKGROUND

DIRECTV 1R is currently drifting towards 55.8° E.L. pursuant to a grant of Commission special temporary authority.⁵ Upon its arrival, DIRECTV proposes to operate the

¹ Response of DIRECTV Enterprises, LLC, File Nos. SAT-A/O-20120817-00137, SAT-AMD-20120824-00142 & SAT-AMD-20120913-00148, filed Nov. 13, 2012 (the “DIRECTV Response”).

² Comments of the Russian Satellite Communications Company, File Nos. SAT-A/O-20120817-00137, SAT-AMD-20120824-00142 & SAT-AMD-20120913-00148, filed Nov. 13, 2012 (the “RSCC Comments”).

³ *DIRECTV Enterprises, LLC*, Call Sign S2369, File Nos. SAT-A/O-20120817-00137, SAT-AMD-20120824-00142, SAT-AMD-20120913-00148 (the “DIRECTV 1R Application”).

⁴ Comments of New Skies Satellites B.V., File Nos. SAT-A/O-20120817-00137, SAT-AMD-20120824-00142 & SAT-AMD-20120913-00148, filed Oct. 31, 2012 (the “SES Comments”).

⁵ See *DIRECTV Enterprises, LLC*, Call Sign S2369, File No. SAT-STA-20120817-00138, grant-stamped Aug. 28, 2012. Drift authority was granted without prejudice to the Commission’s consideration of the DIRECTV 1R Application. See *id.*, Attachment to Grant at 1,

satellite in the 12.2-12.5 GHz downlink and 17.3-17.8 GHz uplink frequencies under a U.S. license but pursuant to Russian International Telecommunication Union (“ITU”) filings. DIRECTV has entered into an agreement that provides for use of DIRECTV 1R to provide interim service pending replacement by RSCC of its Bonum 1 spacecraft.

In its comments, SES explained that the technical materials provided by DIRECTV raise significant questions regarding whether the proposed operations of DIRECTV 1R are compatible with the adjacent NSS-12 Fixed-Satellite Service (“FSS”) spacecraft operated by SES. Specifically, SES showed that the proposed DIRECTV 1R power levels exceed those in the Russian ITU filings,⁶ as well as those prescribed in the relevant coordination agreement between Russia and the Netherlands.⁷ SES also noted that DIRECTV had not provided the analysis required under the Commission’s rules with respect to the power flux density (“PFD”) limits applicable to Broadcasting Satellite Service (“BSS”) operations under Annex 1 of Appendix 30 of the ITU Radio Regulations.⁸ SES commented that its own analysis indicated that the DIRECTV 1R PFD levels would exceed the Annex 1 levels throughout ITU Region 3 and would also be higher than the levels those specified in the applicable coordination agreement.⁹ Finally, SES pointed out that DIRECTV had not demonstrated that telemetry operations of DIRECTV 1R would be compatible with adjacent networks.¹⁰

¶ 5.

⁶ SES Comments at 4 & Attachment A.

⁷ *Id.* at 5.

⁸ *Id.* at 5-6, *citing* 47 C.F.R. § 25.114(d)(13)(ii).

⁹ SES Comments at 6 & Attachment A.

¹⁰ *Id.* at 6 & n.22 (noting that the Commission has found that the failure to provide an interference analysis with respect to TT&C frequencies is grounds for dismissal of an application).

In light of these concerns, SES requested that the Commission impose conditions on any grant of the DIRECTV 1R Application to ensure that operation of DIRECTV 1R will conform to Commission rules and international policies. In particular and consistent with applicable precedent, SES asked that the Commission: (1) require DIRECTV to comply with existing and future coordination agreements; (2) specify that DIRECTV 1R's operations will be unprotected and must not cause harmful interference; and (3) permit DIRECTV to exceed the Annex 1 PFD levels only to the extent such higher levels have been successfully coordinated.¹¹

DISCUSSION

The DIRECTV and RSCC responses to the SES Comments are perhaps more notable for what they do not say than for what they do. Most troubling is the fact that neither party addresses the existing coordination agreement that is in place between Russia and the Netherlands relating to the nominal 56° E.L. orbital location or commits to ensuring that the DIRECTV 1R operations will comply with that agreement. The SES request for a specific condition requiring that DIRECTV 1R be operated consistent with existing and future coordination agreements is never mentioned by either DIRECTV or RSCC.

SES demonstrated that imposing such a condition is consistent with prior Commission decisions, including another ruling where questions were raised about whether power levels proposed by DIRECTV conformed to an existing coordination agreement.¹² The instant case presents exactly the same types of concerns, and neither DIRECTV nor the RSCC provides any reason why the same condition language is not appropriate here. Thus, SES urges

¹¹ *See id.* at 7-8.

¹² SES Comments at 7 & n.23, *citing DIRECTV Enterprises, LLC*, Call Sign S2861, File Nos. SAT-LOA-20120316-00051 & SAT-AMD-20120420-00071, grant-stamped July 12, 2012, Attachment to Grant at 1 & n.1.

the Commission to include a coordination condition in any grant of the DIRECTV 1R Application.

DIRECTV accedes to the second condition requested by SES, acknowledging that a requirement to operate DIRECTV 1R on an unprotected, non-harmful interference basis is “consistent with past practice.”¹³ SES agrees that this is sufficient for DIRECTV 1R’s telemetry operations at 12698.25 MHz and 12699.25 MHz,¹⁴ but not so for the proposed operations in the 12.2-12.5 GHz band. The imposition of such a condition is a good start but is no substitute for requiring compliance with applicable coordination agreements, as discussed above.

DIRECTV opposes the SES request for a condition relating to PFD levels, suggesting that even though such a provision has been imposed before, it should not be applied here.¹⁵ As with its prior filings, the DIRECTV Response does not provide the analysis of the DIRECTV 1R PFD levels that is specifically required by Section 25.114(d)(13)(ii) of the Commission’s rules. Nevertheless, DIRECTV concedes that using the SES calculations, the DIRECTV 1R PFD levels would exceed those specified in Annex 1. DIRECTV argues, however, that the Annex 1 PFD numbers are mere coordination “triggers” and claims that a BSS operator can exceed them even absent an agreement with an affected FSS operator.¹⁶ DIRECTV asserts

¹³ DIRECTV Response at 1. *See also* RSCC Comments at 4 (“RSCC understands that the FCC will authorize DIRECTV 1R to operate on a non-interference, non-protected basis.”).

¹⁴ SES assumes that DIRECTV and RSCC are aware that their commitment to operate without interference protection extends to the DIRECTV 1R telemetry frequencies that overlap with NSS-12 transponders. DIRECTV has not responded to SES’s comments regarding compatibility of the DIRECTV 1R TT&C operations with those of NSS-12. As a result, there is no evidence in the record regarding whether adequate reception of the DIRECTV telemetry channels is possible given the adjacent NSS-12 communications operations.

¹⁵ *Id.* at 5-10.

¹⁶ *Id.* at 6. DIRECTV criticizes SES for characterizing to the Annex 1 PFD levels as “limits.” *Id.* at 6 n.8. However, the Commission’s own rules refer to the “*limits* in Annex 1 to Appendices 30 and 30A.” 47 C.F.R. § 25.114(d)(13)(ii) (emphasis added).

that “exceeding a coordination trigger does not mean that two systems are incompatible; *it just implies the need for coordination.*”¹⁷

DIRECTV’s argument has an obvious flaw, though, because here a coordination agreement is already in place. Thus, DIRECTV’s discussion of what would be appropriate “in the absence of . . . agreement” between a BSS operator and an FSS operator¹⁸ is simply irrelevant. Instead, operation of DIRECTV 1R must conform to the PFD levels specified in the current Russia-Netherlands coordination agreement unless and until the existing coordination agreement is revised to permit higher PFD operations.

DIRECTV argues that operations of DIRECTV 1R at the PFD levels proposed are unlikely to significantly affect reception of the NSS-12 signal.¹⁹ It is not for DIRECTV, however, to substitute its own judgment for that of the parties to the existing Russia-Netherlands coordination agreement regarding acceptable levels of interference. RSCC and DIRECTV can make arguments about the impact of DIRECTV 1R’s proposed operations in the context of any future discussions considering whether to alter that agreement to accommodate DIRECTV 1R, but these claims cannot possibly justify abrogation of the existing agreement.²⁰

¹⁷ DIRECTV Response at 6 (emphasis added).

¹⁸ *Id.*

¹⁹ *Id.* at 7-9. SES notes that it not correct to simply compare Bonum 1’s coverage of Russia with DIRECTV 1R’s coverage of Russia and conclude that they are “very similar” or “practically indistinguishable.” The relevant comparison is of the two satellites’ beam contours over where NSS-12 is operating in the 12.2-12.5 GHz band, such as over northern India. In this respect, neither DIRECTV nor RSCC have provided Bonum 1 beam contours over such territory, which makes it difficult to assess the change in the interference environment that will be caused by DIRECTV 1R.

²⁰ In any event, SES notes that the interference impact of DIRECTV 1R on NSS-12 operations is likely to be greater than DIRECTV or RSCC anticipates because of at least two factors: (a) DIRECTV ignores the fact that the DIRECTV 1R peak EIRP is transmitted through 24 MHz transponders whereas NSS-12 has wider bandwidth transponders; and (b) NSS-12 transponders will typically be operated backed off in multicarrier mode, whereas DIRECTV 1R’s BSS operations are likely to be at full saturation.

For the foregoing reasons, SES requests that any grant of the DIRECTV 1R Application include conditions to ensure compliance with coordination agreements and protect adjacent satellite operations.

Respectfully submitted,

NEW SKIES SATELLITES B.V.

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of November, 2012, a copy of the foregoing

“Reply of New Skies Satellites B.V.” was served on the following parties by first class mail:

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