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June 16, 2014

**FILED ELECTRONICALLY**

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

**Re: Notice of *Ex Parte* Presentation, IBFS File Nos. SAT-RPL-20121228-00227  
& SAT-AMD-20131113-00132, Call Sign S2892**

Dear Ms. Dortch:

On June 12, 2014, Daniel Mah of SES, Margaret Tobey of NBCUniversal, and the undersigned, outside counsel for SES, met with Diane Cornell, Special Counsel to Chairman Wheeler, and with Troy Tanner and Robert Nelson of the International Bureau and José Albuquerque, Karl Kensinger, Andrea Kelly, Chip Fleming, and Stephen Duall of the Satellite Division to discuss the above-referenced application for the SES-3 C- and Ku-band replacement satellite.<sup>1</sup> The purpose of the meeting was to explain the need for an expedited grant of full C- and Ku-band authority for SES-3, even if coordination of the 17/24 GHz BSS is not complete. The SES presentation focused on the attached document, which was distributed at the meeting. Please contact the undersigned if you have any questions.

Respectfully submitted,

*/s/ Karis A. Hastings*

Karis A. Hastings  
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Attachment

cc: Diane Cornell, Chairman's Office	Troy Tanner, IB
Robert Nelson, IB	Jose Albuquerque, IB Satellite Division
Karl Kensinger, IB Satellite Division	Andrea Kelly, IB Satellite Division
Chip Fleming, IB Satellite Division	Stephen Duall, IB Satellite Division
William Wiltshire, Counsel for DIRECTV	Margaret Tobey, VP, NBCUniversal

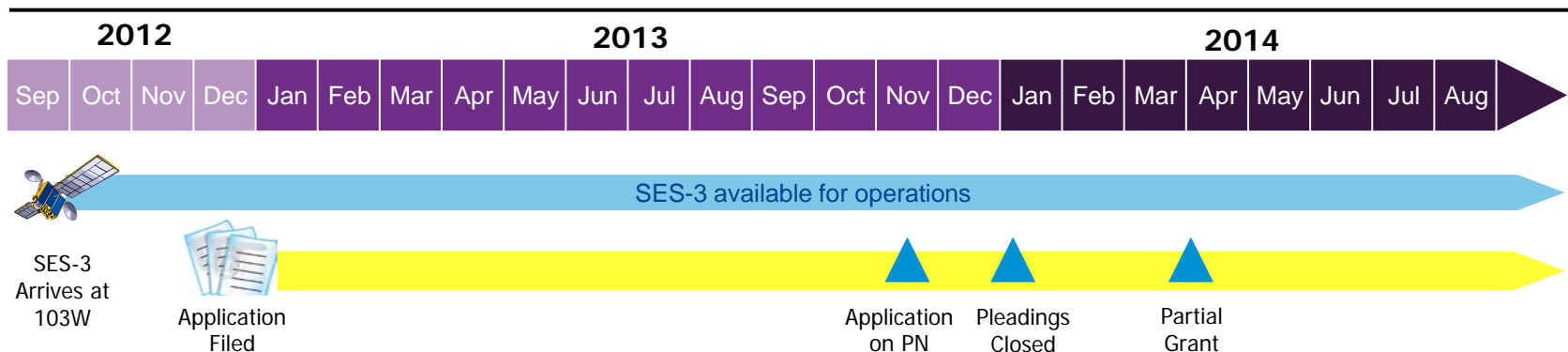
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<sup>1</sup> The application has been designated as permit-but-disclose for purposes of the *ex parte* rules. See Policy Branch Information, Actions Taken, Report No. SAT-00979, DA No. 13-2141, rel. Nov. 8, 2013 at 2.

**SES-3 C/Ku Band  
Replacement Satellite  
at 103° W.L.**



# SES-3 Overview



- ▲ The SES-3 C/Ku-band application has now been pending for more than 17 months.
- ▲ The IB’s partial grant of TT&C and beacon authority has enabled some AMC-1 customers to begin transition preparations.
  - In particular, NBCUniversal, which had planned to start the truck rolls needed to adjust hundreds of widely-dispersed antennas in late February, has been able to commence that process.
- ▲ But grant of full replacement C/Ku-band authority is still required by August to enable customers to complete the transition to SES-3.
- ▲ The FCC must act within that time frame, even if a coordination agreement in the 17/24 GHz BSS has not yet been concluded.

# Deferring C- and Ku-band Authority Is Contrary to the Public Interest

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- ▲ Delaying C- and Ku-band replacement authority harms customers who rely on capacity at this orbital location today and need continuity of service.
- ▲ Deferral allows DIRECTV to misuse FCC processes to gain leverage in unrelated 17/24 GHz BSS coordination discussions, subverting the public interest. As the Bureau has recognized:
  - It does not serve the public interest for parties to invoke the Commission's processes . . . simply to retain or to gain an alleged advantage in commercial negotiations. *Loral Orion Services, Inc.*, Order, DA 99-2221 (IB, rel. Oct. 18, 1999) at ¶ 16.
- ▲ The FCC can consider the 17/24 GHz BSS issues at 103° W.L. – without unfairly burdening C/Ku-band customers at the location – when a request for U.S. market access is filed in that band.

# Deferring C- and Ku-band Authority Is Contrary to FCC Precedent

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- ▲ The Commission has repeatedly stated that it will not withhold authority pending coordination of requested spectrum.
  - For example, DIRECTV was authorized to operate RB-2A at the nominal 103°W.L. orbital location though it had not even commenced, much less completed, coordination in the 17/24 GHz BSS frequencies with Ciel.
  - Other examples include: *SES Satellites (Gibraltar) Limited*, File Nos. SAT-PPL-20101103-00230 & SAT-APL-20110120-00015, grant-stamped Oct. 13, 2011 (adding NSS-703 to the Permitted List and denying a request that authority be conditioned on the completion of coordination); *Loral Spacecom*, 18 FCC Rcd 16374 (Sat. Div. 2003) (adding Telstar 13 to the Permitted List despite the fact that coordination with a higher priority filing had not been completed); and *Loral Orion Services, Inc.*, Order, DA 99-2221 (IB, rel. Oct. 18, 1999) (denying stay of launch authority for Telstar 12).
- ▲ In all of these cases, the open coordination involved the spectrum for which authority was being sought. Yet here, the IB has deferred C/Ku-band action because coordination in a different band remains open.
- ▲ The Order makes no attempt to justify its departure from this established Commission precedent.

# 17/24 GHz BSS Issues Do Not Justify Delaying C/Ku-Band Authority

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- ▲ The Order's only rationale for deferral – to “provide a period” for 17/24 GHz BSS coordination – is without merit:
  - When it accepted its 17/24 GHz BSS authorization, DIRECTV assumed the risk that it might “not be able to operate its system” if it failed to complete international coordination. *17/24 GHz Second Order on Reconsideration*, FCC 10-188, at ¶ 10.
  - Since then, DIRECTV has expressly acknowledged the coordination risk in its annual public securities filings but has done nothing to seek coordination with Ciel.
  - DIRECTV hedged its risk by building “a multi-band/multi-mission satellite designed to operate at any of DIRECTV's currently licensed Ka-band, 17/24 GHz BSS, or 12/17 GHz DBS orbital locations.” DIRECTV15 Application at 5.
- ▲ The current coordination discussions may or may not lead to agreement, but C- and Ku-band customers' access to replacement capacity should not be held up any further while those negotiations continue.
- ▲ Instead, the Commission should grant the SES-3 C- and Ku-band license, even if the 17/24 GHz coordination is not yet complete, as required by the public interest and the FCC's own policies and precedent.