

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Intelsat License LLC

Application for Authority to Launch and Operate Galaxy 15R, a Replacement Satellite with New Frequencies, at 133.0° W.L. (227.0° E.L.)

File Nos. SAT-LOA-20170524-00078,
and SAT-AMD-20170613-00086

Call Sign: S3015

RESPONSE OF INTELSAT LICENSE LLC

Intelsat License LLC (“Intelsat”), by its attorneys, responds to the Petition to Defer or Deny, In Part, of Eutelsat S.A. (“Eutelsat”),¹ Petition to Deny of Iridium Satellite LLC (“Iridium”),² and Informal Objection of O3b Limited (“O3b”) and SES Americom, Inc. (“SES Americom”) (collectively the “SES Companies”)³ regarding the above-referenced application for authority to launch and operate Galaxy 15R (call sign S3015), a replacement satellite with new frequencies at 133.0° W.L. (the “Application”).⁴ The Galaxy 15R satellite will replace the

¹ Petition to Defer or Deny, In Part, of Eutelsat S.A., Call Sign S3015, File Nos. SAT-LOA-20170524-00078 and SAT-AMD-20170613-00086 (filed Dec. 26, 2017) (“Eutelsat Petition”).

² Petition to Deny of Iridium Satellite LLC, Call Sign S3015, File Nos. SAT-LOA-20170524-00078 and SAT-AMD-20170613-00086 (filed Dec. 22, 2017) (“Iridium Petition”).

³ Informal Objection of O3b Limited and SES Americom, Inc., Call Sign S3015, File Nos. SAT-LOA-20170524-00078 and SAT-AMD-20170613-00086 (filed Jan. 5, 2018) (“SES Companies Informal Objection”). The SES Companies failed to timely file their objection in accordance with Section 25.154(a) of the Commission’s Rules. 47 C.F.R. § 25.154(a). Accordingly, the SES Companies’ filing is classified as an informal objection. *See* 47 C.F.R. § 25.154(b)(1).

⁴ Application of Intelsat License LLC for Authority to Launch and Operate Galaxy 15R, a Replacement Satellite with New Frequencies, at 133.0° W.L. (227.0° E.L.), Call Sign S3015, File Nos. SAT-LOA-20170524-00078 and SAT-AMD-20170613-00086 (filed May 24, 2017) (“Galaxy 15R Application”).

Galaxy 15 satellite (call sign S2387) at the 133.0° W.L. orbital location,⁵ operating on the same C-band frequencies as Galaxy 15, as well as on new Ku- and Ka-band frequencies. This will allow Intelsat to provide continuity of service from the 133.0° W.L. orbital location and enhance its service offerings in the region for the benefit of consumers.

I. THE COMMISSION SHOULD GRANT THE GALAXY 15R APPLICATION

The Federal Communications Commission (“FCC” or “Commission”) should deny Eutelsat’s and Iridium’s petitions and reject the concerns raised in the SES Companies’ informal objection. Intelsat has satisfied all relevant FCC requirements for grant of its pending Application to launch and operate the Galaxy 15R satellite in C-, Ku- and Ka-band frequencies at 133.0° W.L. The Commission should therefore reject claims that Intelsat must satisfy additional filing demands, or calls to delay or dismiss Intelsat’s Application in whole or in part, which have no basis in agency rules or precedent and are contrary to the public interest.

A. The Commission Should License Intelsat’s Galaxy 15R Satellite Subject to Customary International Coordination.

Eutelsat asks the FCC to defer consideration of or, in the alternative, to deny the Ku- and Ka-band portions of Intelsat’s Application pending a potential future Eutelsat petition for U.S. market access using Ku- and Ka-band frequencies at 133.0° W.L.⁶ Eutelsat claims that this will provide an opportunity for them to coordinate with Intelsat.⁷ Eutelsat observes that while the United States has earlier ITU date priority in C-band frequencies at 133.0° W.L., the administration of France has ITU filings with earlier date priority in Ku- and Ka-band

⁵ See *Policy Branch Information; Actions Taken, Public Notice*, Report No. SAT-00233, SAT-LOA-19991207-00119 (Aug. 13, 2004) (“Galaxy 15 Authorization”). Licenses originally held by PanAmSat Licensee Corp. were assigned in 2005 to Intelsat North America, which later changed its name to Intelsat License LLC.

⁶ *Eutelsat Petition*, at 5, 6.

⁷ *Id.*

frequencies at that location.⁸ Eutelsat claims that it will seek FCC authority for an in-orbit Ku-band satellite to serve the U.S. market upon relocation to 133.0° W.L. in mid-2018, and separately for a “purpose built” Ku- and Ka-band satellite at that location to begin service to the United States in mid-2021.⁹

Eutelsat’s suggestion that the FCC defer consideration—let alone deny—the Ku- and Ka-band portions of Intelsat’s Application contradicts well-established FCC policy and is contrary to the public interest. Fifteen years ago, as part of the *First Space Station Licensing Reform Order*,¹⁰ the Commission adopted a “first-come, first-served” policy that requires grant of Intelsat’s first-filed request to use available Ku- and Ka-band frequencies at 133.0° W.L. Under this policy, ITU date priority is not a precondition to grant. Instead, the Commission grants licenses subject to the routine requirement to comply with the international coordination process.¹¹ The agency further made clear that first-come licensees “assume[] the coordination risk when choosing that particular orbit location.”¹²

⁸ *Id.*, at 3.

⁹ *Id.*, at 1-2.

¹⁰ *See 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) (“First Space Station Licensing Reform Order”).

¹¹ *See id.* ¶¶ 96, 295; *Amendment of the Commission’s Space Station Licensing Rules and Policies*, Second Order on Reconsideration, 31 FCC Rcd. 9398, ¶¶ 31-32 (2016).

¹² *First Space Station Licensing Reform Order*, ¶ 96 (“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.”).

The FCC affirmed this policy in its 2015 review of satellite licensing and operating rules.¹³ In fact, the Commission observed that later-filed applications—with or without ITU priority—are deferred until the agency has completed review of the earlier application:

[I]f a non-U.S. Licensed operator files a request for access to the U.S. Market after the filing of a first-step application that is deemed mutually exclusive, we generally will defer action on the market access request until after we have resolved the earlier-filed application or mutual exclusivity concerns have been eliminated through coordination between the parties involved. This is true even in cases where the foreign operator makes use of an ITU filing with an earlier date of protection than the U.S. filing relied upon by the applicant.¹⁴

This matter has also been extensively litigated in prior satellite applications, and the Commission has consistently found that the public interest is best served by licensing the earlier-filed applications subject to the outcome of the international coordination process.¹⁵

Accordingly, Eutelsat’s insinuation that denial of the Ku- and Ka-band portions of the Intelsat Application “is necessitated” absent coordination is plain wrong.¹⁶ Intelsat fully appreciates and accepts the inherent risks in seeking authorization to operate at 133.0° W.L. considering France’s earlier ITU filings in Ku- and Ka-band frequencies at that location. It is also worth noting that the French filings referenced in Eutelsat’s petition were submitted to the ITU as early as 2014. Eutelsat thus had ample opportunity to confirm its interest in building a satellite at the 133.0° W.L. orbital location by submitting a market access application to the FCC,

¹³ See *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, 30 FCC Rcd. 14713, ¶¶ 41-42 (2015).

¹⁴ *Id.*, ¶ 42.

¹⁵ See, e.g., *ViaSat, Inc.*, Stamp Grant, S2953, File No. SAT-LOI-20160208-00015 (2016) (accepting Telesat’s request that a condition be placed on ViaSat’s authorization stating that the grant is subject to the outcome of the international coordination process); *Hughes Network Systems, LLC*, Declaratory Ruling, S2755, File No. SAT-LOI-20091110-00121 (2011) (granting Hughes market access despite pending coordination of its system with Ciel and declining to specify conditions concerning coordination).

¹⁶ *Eutelsat Petition*, at 6.

but chose not to do so.¹⁷ Should Eutelsat eventually decide to move forward with its plans to utilize the 133.0° W.L. orbital location, Intelsat is prepared to work in good faith with Eutelsat to coordinate the two companies' satellite networks.

For the reasons set forth above, the Commission should deny Eutelsat's petition and grant Intelsat's Application, consistent with the agency's precedent.

B. The Commission Should Deny Iridium's Petition Because Commission Rules Already Require Coordination.

In its petition, Iridium requests that the Commission "deny Intelsat's [A]pplication to the extent it seeks authority to operate in the 29.25-29.3 GHz band" because the Application does not contain "information about Intelsat's planned operations in the band."¹⁸ Alternately, Iridium argues that if the Commission grants Intelsat's Application, it should "at a minimum condition Intelsat's authority to operate in the 29.25-29.3 GHz band on successful coordination with Iridium."¹⁹

The Commission should deny Iridium's petition and grant Intelsat's Application without the requested condition. Iridium's claim that Intelsat's Application establishes a "pattern of neglect"²⁰ is baseless and hyperbolic. Consistent with every Intelsat application, its Galaxy 15R Application provides all information required by FCC rules. As Iridium acknowledges,²¹ the Commission's rules already require Intelsat to coordinate its use of the 29.25-29.3 GHz band

¹⁷ It is also worth noting that Eutelsat has numerous ITU filings through France at orbital locations where the company has not historically operated any satellites. It is therefore difficult for Intelsat—or any other operator for that matter—to discern Eutelsat's level of commitment to build a satellite at any single one of these orbital locations based merely on the presence of these ITU filings.

¹⁸ *Iridium Petition*, at 1.

¹⁹ *Id.*, at 2.

²⁰ *Id.*, at 3.

²¹ *Id.*

with non-geostationary satellite orbit (“NGSO”) licensees’ feeder link operations. Rule 25.278

states:

Licenseses of non-geostationary satellite systems that use frequency bands allocated to the Fixed-Satellite Service for their feeder link operations shall coordinate their operations with licensees of geostationary Fixed-Satellite Service systems licensed by the Commission for operation in the same frequency bands. Licensees of geostationary Fixed-Satellite Service systems in the frequency bands that are licensed to non-geostationary satellite systems for feeder link operations shall coordinate their operations with the licensees of such non-geostationary satellite systems.²²

Rule 25.258 requires cooperation between the NGSO and geostationary satellite orbit (“GSO”)

operators in such coordination:

Operators of NGSO MSS feeder link earth stations and GSO FSS earth stations in the band 29.25 to 29.5 GHz where both services have a co-primary allocation shall cooperate fully in order to coordinate their systems.²³

Commission rules thus clearly require Intelsat to coordinate with Iridium. The rules do not require—as Iridium suggests—that an applicant provide a showing of “how coordination... might be achieved.”²⁴ Intelsat cannot “neglect” to provide NGSO coordination information that is not required.

Of course, Intelsat will follow Commission rules and coordinate with Iridium. In the Application, Intelsat directly acknowledges the need for such coordination, stating:

The band 29250-29300 MHz is allocated to MSS feeder links and FSS on a co-primary basis. Earth station uplink operation in the 29250-29300 MHz band will require coordination with the incumbent MSS feeder link operator.²⁵

²² 47 C.F.R. § 25.278

²³ *Id.* § 25.258.

²⁴ *Iridium Petition*, at 4.

²⁵ *Galaxy 15R Application*, Engineering Statement, at 1 and n. 2.

Intelsat affirms here, again, that it will comply with the coordination obligations set forth in the Commission’s rules related to use of the 29.25-29.3 GHz band. Any suggestion to the contrary is baseless, speculative, and should be dismissed.

Iridium’s odd claim that Intelsat has not yet approached Iridium with respect to coordination does not render an application subject to denial. Iridium cites no Commission rule requiring an applicant to begin coordination by a certain date—because no such rule exists. Importantly, Galaxy 15R is not expected to launch until Q2 2022, and thus there is ample time for the parties to coordinate. And, in the spirit of efficient spectrum use, Intelsat expects and appreciates that Iridium will be forthcoming and cooperative in the future coordination process.

Finally, Iridium’s suggestion that Intelsat is claiming a replacement expectancy for the 29.25-29.3 GHz band is—purely and simply—a falsehood.²⁶ Notably, Iridium fails to cite Intelsat’s Application when it makes this claim. The Application specifically acknowledges application of the Commission’s band requirements because the 29.25-29.3 GHz band was not previously licensed to Intelsat at this location.²⁷

C. The Commission Should Reject the SES Companies’ Request for Information Not Required by FCC Rules and Precedent.

The SES Companies contend that the Commission should deny Intelsat’s Galaxy 15R Application because “Intelsat has failed to make any substantive showing that its proposed operations in the 28.6-29.1 GHz and 18.8-19.3 GHz bands . . . are compatible with existing and future NGSO systems.”²⁸ However, Intelsat has satisfied all FCC requirements relating to its

²⁶ *Iridium Petition*, at 5.

²⁷ *Galaxy 15R Application*, Engineering Statement, at 7.

²⁸ *SES Companies Informal Objection*, at 2-3.

Galaxy 15R Application. The Commission should therefore disregard the concerns raised in the SES Companies' informal objection.

Intelsat's Application makes clear that its proposed GSO use of the 28.6-29.1 GHz and 18.8-19.3 GHz bands will be on an unprotected/non-interference basis. Specifically, the Galaxy 15R Application states:

Intelsat will accept interference from, and not cause interference to, NGSO FSS operators.²⁹

Further, Intelsat acknowledges that NGSO systems have primary status in the 28.6-29.1 GHz and 18.8-19.3 GHz bands, stating:

In its recent Report and Order updating to Parts 2 and 25 as related to NGSO systems, the Federal Communications Commission adopted a proposal to add a secondary FSS allocation in the 18.8-19.3 GHz band. Additionally, the 18.8-19.3 GHz and 28.6-29.1 GHz bands are allocated to the NGSO FSS service on a primary basis in the United States. Accordingly, *Intelsat acknowledges the use by, and commits to protecting the operations over the United States of all existing and future NGSO systems in the 18.8-19.3 GHz and 28.6-29.1 frequency bands.*³⁰

This commitment is consistent with the Commission's rules and other GSO FSS applications seeking approval to operate in the 18.8-19.3 GHz and 28.6-29.1 GHz bands.³¹ The Commission has recognized that GSO operations in the 28.6-29.1 GHz and 18.8-19.3 GHz bands on an unprotected/non-interference basis will allow both GSO FSS and NGSO FSS operators to

²⁹ *Galaxy 15R Application*, Legal Narrative, at 7.

³⁰ Letter from Cynthia J. Grady, Regulatory Counsel, Intelsat Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, File Nos. SAT-LOA-201 70524-00079 and SAT-AMD-20170613-00086, at 1 (Nov. 21, 2017) (emphasis added).

³¹ *See, e.g.*, Letter from Jennifer A. Manner, Senior Vice President, Regulatory Affairs, Hughes Network Systems, LLC, to Jose P. Albuquerque, Chief, Satellite Division, Federal Communications Commission, File No. SAT-LOA-20170621-00092, at 3-4 (Sept. 8, 2017) (noting that Hughes would implement coordination mechanisms to avoid causing harmful interference to NGSO FSS systems operating in the 18.8-19.3 GHz and 28.6-29.1 GHz bands).

co-exist.³² Intelsat will engage in coordination discussions with all primary users of the 18.8-19.3 GHz and 28.6-29.1 GHz bands to ensure that its operations in these bands will not interfere with NGSO FSS operators.

The SES Companies suggest that *ex ante* quantitative demonstrations of non-interference are required before the Commission can approve GSO applications in the bands.³³ But nothing in the Commission's rules or precedent require such a showing, and the SES Companies provide no concrete support for their claim to the contrary. The Commission should reject the suggestion in an untimely filed objection that applicants must satisfy burdensome filing requirements that have no basis in the Commission's rules or established precedent.

The SES Companies further suggest that the Commission should dismiss Intelsat's Application without prejudice because Intelsat submitted its two-degree spacing analysis for certain Ka-band frequencies after the Application was placed on public notice.³⁴ The SES Companies do not challenge the sufficiency or accuracy of Intelsat's analysis demonstrating that the Galaxy 15R satellite system is compatible with co-frequency, GSO networks at orbital locations two degrees from 133.0° W.L. in certain Ka-band frequencies. Rather, they procedurally oppose the delay in submission. However, Intelsat promptly provided the interference analysis upon becoming aware of its inadvertent omission and before SES filed its untimely objection. To the extent the Commission believes that additional time is required for the parties to review the analysis, Intelsat has no objection to providing an additional 30-days for

³² *In the Matter of Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809, ¶ 14 (2017); *In the Matter of Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Notice of Proposed Rulemaking, 31 FCC Rcd 13651, ¶ 11 (2016).

³³ *SES Companies Informal Objection*, at 3.

³⁴ *SES Companies Informal Objection*, at 7.

interested parties to review its Ka-band two-degree spacing analysis, which is based on hypothetical adjacent satellites given that there are no operational satellites two degrees from 133.0° W.L. in the 27.5-28.35 GHz and 28.6-29.1 GHz (Earth-to-space) and 17.8-18.3 GHz and 18.8-19.3 GHz (space-to-Earth) frequency bands. Because the full information is now on file with the Commission, there is no basis for the Commission to dismiss the Application.³⁵

II. CONCLUSION

For the foregoing reasons, Intelsat urges the Commission to deny the petitions of Eutelsat and Iridium and dismiss the objection of the SES Companies, and expeditiously grant the pending Application to enable Intelsat to ensure service continuity, as well as provide expanded services, from 133.0° W.L.

Respectfully submitted,

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³⁵ Intelsat also would not oppose a decision to place the Ka-band frequencies identified in the Galaxy 15R Application on further public notice, should the Commission determine this is necessary. Moreover, to the extent necessary, the Commission has authority, upon its own motion, to waive or permit exception to any rule or requirement requiring application dismissal. *See* 47 C.F.R. § 25.112(b)(2).

CERTIFICATE OF SERVICE

I, Jacquelyn Martin, hereby certify that on this 12th day of January 2018, a copy of the foregoing Response of Intelsat License LLC is being sent via first class, U.S. Mail, postage paid, to the following:

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