

# JONES DAY

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January 9, 2018

## VIA ELECTRONIC FILING

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

Re: Hughes Network Systems, LLC, Application for Authority to Launch and Operate a Ka-band and Q/V-band Geostationary Fixed-Satellite Service Satellite at the Nominal 95° W.L. Orbital Location, File Nos. SAT-LOA-20170621-00092; SAT-AMD-20170908-00128, Written Ex Parte Notice

Dear Ms. Dortch:

The Boeing Company (“Boeing”), through its counsel, files this *ex parte* letter to clarify the record on several aspects of the *ex parte* letter that was filed by Hughes Network Systems, LLC (“Hughes”) regarding the above-referenced proceeding. In its letter, Hughes initially suggests that the Commission did not maintain a policy requiring dismissal of an application for a geostationary satellite orbit (“GSO”) satellite system in a spectrum band that lacks service rules and is already covered by a pending non-geostationary satellite orbit (“NGSO”) satellite application.<sup>1</sup> Hughes then acknowledges that this policy did exist, but claims (with added italics) that the policy required only “that the Commission will not *consider* such applications until sharing criteria are established.”<sup>2</sup> In fact, the policy clearly required that the Commission “will *dismiss*

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<sup>1</sup> Letter from Jennifer A. Manner, Senior Vice President, Regulatory Affairs, Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, File Nos. SAT-LOA-20170621-00092; SAT-AMD-20170908-00128, at 1 (Dec. 27, 2017) (“*Hughes Ex Parte Letter*”) (claiming incorrectly that “the Commission has no stated policy or rule that requires dismissal of an application for NGSO-like operation if filed after the Commission has granted an application for GSO-like operation, or vice versa, in frequency bands where no satellite service rules have been adopted”).

<sup>2</sup> *Id.* at 1-2 (quoting 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, 10786-87, ¶ 58 (2003) (“*2003 Satellite Licensing Order*”)) (emphasis in *Hughes Ex Parte Letter*).

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subsequently-filed GSO-like satellite system applications in that band until sharing criteria are established.”<sup>3</sup>

Second, Hughes suggests that the prior policy was eliminated in September 2017.<sup>4</sup> In fact, the Commission order that replaced the prior policy will not take effect until January 17, 2018,<sup>5</sup> long after Hughes filed its application on June 21, 2017. Therefore, absent a waiver, the Commission’s prior policy clearly governs the treatment of Hughes’ application.

Third, Hughes again misconstrues Boeing’s position regarding the processing of the pending applications for NGSO systems operating in the V-band.<sup>6</sup> Boeing has repeatedly acknowledged that the Commission recently decided that, in order to enable co-frequency spectrum sharing between NGSO and GSO systems, NGSO satellite systems will need to protect GSO satellite systems in new spectrum bands such as the V-band.<sup>7</sup> Boeing has repeatedly argued, however, that the need for NGSO systems to protect GSO systems does not justify disparate processing of NGSO system applications on anything less than an expeditious basis.<sup>8</sup> Having repeatedly failed to acknowledge the point Boeing was making, Hughes has not made any arguments to the contrary.

Fourth, Hughes incorrectly characterizes the condition that Boeing sought to be imposed on any grant of Hughes’ V-band application. Specifically, Hughes claims that Boeing proposed “that the Commission require a GSO operator to incorporate a sufficient margin in its link budget to protect NGSO operations.”<sup>9</sup> Instead, Boeing is proposing that the Commission require Hughes to incorporate sufficient margin in its link budget to ensure that it can operate pursuant to the

<sup>3</sup> *2003 Satellite Licensing Order*, ¶ 58 (*emphasis added*).

<sup>4</sup> *See Hughes Ex Parte Letter* at 1.

<sup>5</sup> *See Updates Concerning Non-Geostationary, Fixed Satellite Service Systems and Related Matters*, 82 Fed. Reg. 59972 (Dec. 18. 2017).

<sup>6</sup> *See Hughes Ex Parte Letter* at 2-3 (claiming incorrectly that Boeing was seeking “equal treatment” in the interference protection requirements for NGSO and GSO satellite systems).

<sup>7</sup> *See, e.g., Reply Comments of The Boeing Company*, File Nos. SAT-LOA-20170621-00092; SAT-AMD-20170908-00128, at 2 (Nov. 13, 2017) (“*Boeing Reply Comments*”) (acknowledging that, “[a]s Boeing acknowledged in its comments, NGSO systems will need to protect co-frequency GSO networks); *Comments of The Boeing Company*, File Nos. SAT-LOA-20170621-00092; SAT-AMD-20170908-00128, at 4 (Nov. 13, 2017) (“*Boeing Comments*”) (explaining that “Boeing recognizes that NGSO FSS systems will need to employ GSO arc avoidance and other measures to facilitate co-frequency GSO FSS operations in the Q/V-band”).

<sup>8</sup> *See Boeing Reply Comments* at 3-4; *Boeing Comments* at 3 and 5.

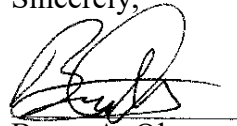
<sup>9</sup> *Hughes Ex Parte Letter* at 3.

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protection criteria that is ultimately adopted by WRC-19 for NGSO protection of GSO systems. As Boeing has observed, ITU Working Party 4A has been working on an NGSO/GSO protection criteria that may facilitate more efficient use of the Q/V-bands as compared to the NGSO/GSO protection criteria that were employed for the Ku- and Ka-bands.<sup>10</sup> This Q/V-band protection criteria still must be adopted by WRC-19 under Agenda Item 1.6 and GSO systems launched prior to WRC-19 should be required to ensure that they can successfully operate pursuant to the level of protection that is ultimately afforded to them in the WRC-19 process.

Thank you for your attention to this matter. Please contact the undersigned if you have any questions.

Sincerely,



Bruce A. Olcott  
Counsel to The Boeing Company

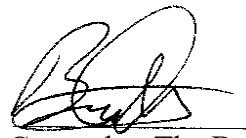
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<sup>10</sup> See Annex 14 to Chairman's Report, ITU-R Working Party 4A, Document 4A/519, *Working Document Towards a Preliminary Draft New Report ITU-R S.[50/40 GSO-NGSO Sharing]*, *Sharing Between 50/40 GHz GSO FSS Networks and Non-GSO FSS Systems*, WRC-19 agenda item 1.6 (6 Nov. 2017), available at [https://www.itu.int/dms\\_ties/itu-r/md/15/wp4a/c/R15-WP4A-C-0519!N14!MSW-E.docx](https://www.itu.int/dms_ties/itu-r/md/15/wp4a/c/R15-WP4A-C-0519!N14!MSW-E.docx) (Ties password required).

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I hereby certify under penalty of perjury that the foregoing *Ex Parte* Response was served this 9<sup>th</sup> day of January, 2018, by the U.S. Postal Service, first class postage pre-paid, to the following:

Jennifer A. Manner  
Senior Vice President, Regulatory Affairs  
Hughes Network Systems, LLC  
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Counsel to The Boeing Company