

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

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
EchoStar Satellite L.L.C. ) File No. SAT-LOA-20030609-00113  
)  
Application for Authority to Construct, )  
Launch and Operate a Direct Broadcast )  
Satellite in the 12.2-12.7 GHz and )  
17.3-17.8 GHz Frequency Bands at the )  
86.5° W.L. Orbital Location )

Received  
MAY 19 2005  
Policy Branch  
International Bureau

COMMENTS OF SES AMERICOM, INC.

SES Americom, Inc. ("SES Americom"), by its attorneys and pursuant to Section 25.154 of the Commission's Rules, 47 C.F.R. § 25.145, hereby submits its comments on the above-captioned application of EchoStar Satellite L.L.C. (the "Application"). EchoStar asks the Commission to grant a license for a new direct broadcast satellite to be located at the 86.5° W.L. orbital location. Application at 1. SES Americom requests that the Commission impose a coordination requirement as a condition of any license granted to EchoStar at this orbital position.

SES Satellites (Gibraltar) Limited ("SES Gibraltar"), a wholly-owned subsidiary of SES Americom, has approval from the Gibraltar Regulatory Authority ("GRA") to employ BSS frequencies for a satellite network at 86.5° W.L. The United Kingdom submitted filings on behalf of the GRA for this network, USAT S3 (86.5W) and USAT S3 MOD A (86.5W), to initiate a modification to the ITU Plan for Region 2 Broadcasting Satellite Service ("BSS") pursuant to the procedures specified in Appendices 30 and 30A of the ITU Radio Regulations.

EchoStar requested that the Commission submit filings seeking a modification of the ITU Region 2 BSS Plan on EchoStar's behalf and provided copies of the requested filings with its Application. Application at 2, Attachment 1 & Exhibits A & B. However, to SES Americom's knowledge, the U.S. has not submitted a modification request at 86.5° W.L. Thus, the U.K. filings have date priority over any U.S. filings made on behalf of EchoStar.

In the supplemental technical information EchoStar provided in support of its Application, EchoStar recognized that implementation of the U.K. filings would preclude its own planned operations:

The two UK filings at 86.5° W.L. which are collocated with the proposed EchoStar-86.5W satellite cannot be coordinated by technical means. Supplemental Technical Annex, EchoStar-86.5 W DBS Satellite (filed Feb. 27, 2004) at 12.

In these circumstances, Commission precedent requires the imposition of coordination conditions to protect the rights of SES Gibraltar, which has date precedence under ITU regulations. For example, when EchoStar sought authority for EchoStar VIII, the Commission noted that because the satellite's technical parameters varied from those set forth in the U.S. assignments for the Region 2 Plan, the U.S. would need to file for modification of the BSS Plan for EchoStar VIII.<sup>1</sup> The Commission authorized launch and operation of the satellite, but reminded EchoStar that its satellite operations would not be "guaranteed

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<sup>1</sup> *EchoStar Satellite Corporation, Application for Minor Modification of Direct Broadcast Satellite Authorization, Launch and Operating Authority for EchoStar VIII*, Order and Authorization, 17 FCC Rcd 11326 (Sat. Div. 2002) at ¶ 5.

protection from interference from systems licensed by other Administrations operating in accordance with the ITU Radio Regulations unless and until the Region 2 BSS Plan and its associated Feeder Link Plan are modified to include the technical parameters of EchoStar VIII." *Id.* at ¶ 7. The Commission also imposed conditions that required EchoStar "to coordinate with any Administration having an affected Region 2 Plan assignment or prior-filed Plan modification" unless and until the Region 2 BSS and Feeder Link Plans were modified to reflect the EchoStar VIII parameters. *Id.*

The same action is appropriate here. If the Commission grants EchoStar's application, it must advise EchoStar that it is not entitled to interference protection from networks operating pursuant to prior ITU filings. In addition, the Commission should include a condition requiring EchoStar to coordinate with affected systems of other administrations that have priority over any U.S. filing for modification of the Region 2 Plan. These measures are necessary to ensure that EchoStar's proposed network complies with ITU requirements and the Commission's rules.

Respectfully submitted,

SES AMERICOM, INC.

By: 

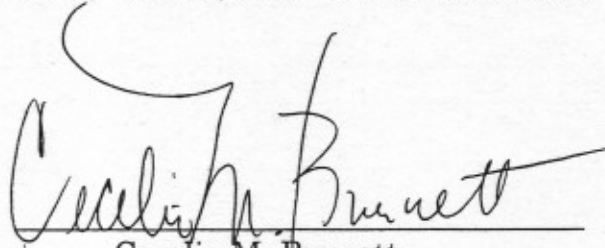
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May 16, 2005

**CERTIFICATE OF SERVICE**

I, Cecelia Burnett, do hereby certify that on this 16<sup>th</sup> day of May, 2005, copies of the foregoing "Comments of SES Americom, Inc." were served to the following parties by first class mail:



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