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ORIGINAL

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August 1, 2008

**Via Courier**

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

FILED/ACCEPTED

AUG - 1 2008

Federal Communications Commission  
Office of the Secretary

Re: Pegasus Development DBS Corporation  
See File Nos. listed in the attached Exhibit A

Dear Ms. Dortch:

In connection with the 17/24 GHz applications listed in the attached Exhibit A, Pegasus Development DBS Corporation (“Pegasus”) hereby comments and seeks clarification that:<sup>1</sup> (i) the Commission’s rules do not permit DIRECTV Enterprises LLC (“DIRECTV”) to operate a satellite at 118.4°W at full power with full interference protection; (ii) the current 17/24 GHz applicants may exchange spectrum interests before licensing; and (iii) following any such exchange or any post-licensing transfer or assignment, no licensee will be required to post or maintain more than one \$3 million bond for any one satellite system at an orbital location.

*DirecTV’s application for 118.4°W.* DIRECTV has applied to operate a 17/24 GHz satellite at 118.4°W at full power and with full interference protection.<sup>2</sup> Pegasus has a pending application to operate at full power with full interference protection at

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<sup>1</sup> The applications were placed on public notice on July 2, 2008, and comments are due by August 1, 2008. See Public Notice, Report No. SAT-00535 (July 2, 2008); Public Notice, Report No. SAT-00537 (July 11, 2008).

<sup>2</sup> See e.g., File No. SAT-AMD-20080114-00017 (Call Sign S2244), Application Narrative, at p. 5 (“DIRECTV proposes to operate [at the 118.4°W offset location] at full power and with full interference protection.”); p. 11 (“DIRECTV is applying for an orbital location that is offset 0.6° from an Appendix F slot [and] seeks to operate at full power and with full interference protection).

115.0°W,<sup>3</sup> which is an Appendix F orbital location.<sup>4</sup> Because the pending applications for adjacent satellites are considered simultaneously filed and Pegasus has proposed to locate its satellite at an Appendix F location, while DIRECTV has not, the Commission's rules prohibit DIRECTV's proposed full power, full protection operations at 118.4°W.<sup>5</sup> Pegasus does not object to the operation of the DIRECTV satellite at 119°W at full power with full interference protection or to the operation of the satellite at 118.4°W at reduced power with reduced interference protection in relation to Pegasus' proposed satellite at 115°W.<sup>6</sup>

*Pre-licensing exchanges of spectrum.* Pegasus urges the Commission to clarify that pre-licensing exchanges of application spectrum interests among or between current 17/24 GHz applicants are permissible under the FCC's rules,<sup>7</sup> including specifically that such exchanges are not contrary to the prohibition against

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<sup>3</sup> See File No. SAT-AMD-20080114-00023 (Call Sign S2700), Application Narrative, at p. 20 ("Pegasus requests authority to operate the proposed satellites at full power with full interference protection (i.e. a full-power Appendix F space station) at the following orbital locations: 91.0°W, 107.0°W, and 115.0°W.").

<sup>4</sup> Appendix F orbital locations range from 43°W to 179°W, inclusive, and are spaced four degrees apart. See *In the Matter of The Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcast-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, Report and Order, 22 FCC Rcd 8842, at Appendix F (2007) ("17/24 GHz Order"); Order on Reconsideration, 22 FCC Rcd 17951, at Appendix B (2007) ("17/24 GHz Order on Reconsideration").

<sup>5</sup> See *17/24 GHz Order on Reconsideration*, at ¶ 26 (grant of an Appendix F satellite application will prevent the grant of a simultaneously filed full power, full interference protection application to operate a satellite at an offset location less than 4° away); ¶ 34 (establishing second filing window "in cases where an application for authority to operate at an offset location at full power conflicts with [a simultaneously filed] application for an Appendix F location"); ¶ 36 ("Any applicant proposing a full-power, offset space station that conflicts with an application for an adjacent Appendix F space station will have thirty days after the deadline for amended applications . . . to amend its application.").

<sup>6</sup> See *17/24 GHz Order on Reconsideration*, at ¶ 34; see also 47 C.F.R. §§ 25.140(b)(4)(ii); 25.140(c)(3).

<sup>7</sup> See 47 C.F.R. § 1.2 (Commission has authority to issue declaratory ruling in order to eliminate uncertainty).

transferring one's place in the application queue.<sup>8</sup> Permitting such transactions would allow licensees to deploy more efficient and cost effective satellites, reduce potential orbital congestion, and is consistent with the Commission's goal in the *17/24 GHz Order* for the current applicants "to reach a compromise regarding their orbital assignment requests and minimize, or avoid, mutually exclusive situations."<sup>9</sup> Moreover, because the applicants would be essentially exchanging 17/24 GHz spectrum at different orbital locations and no entity, other than the current applicants, would obtain any 17/24 GHz spectrum as a result of such transactions, the purpose for prohibiting transfers of applications in the queue, to prevent speculation and trafficking, would not be undermined.<sup>10</sup>

*Bond requirements.* Pegasus also urges the Commission to clarify that, as a result of any such exchange, it would not impose more than a single \$3 million bond requirement for a 17/24 GHz licensee's satellite system at a single orbital location. For example, if Pegasus were to obtain the 17/24 GHz spectrum interests of DIRECTV and EchoStar Satellite Operating L.L.C. ("EchoStar") at 107°W, upon licensing, Pegasus would be required to post only one \$3 million bond for its satellite system at that location and not three \$3 million bonds. Similarly, the Commission should clarify that, post-licensing, a licensee may obtain the 17/24 GHz spectrum rights of other licensees at the same orbital location without having to post or maintain more than a single \$3 million bond. For example, if Pegasus, DIRECTV, and EchoStar were each licensed at 107°W, and Pegasus subsequently were to acquire the 17/24 GHz licenses of DIRECTV and EchoStar for use with a Pegasus satellite at that location, it should be required to post or maintain only one \$3 million bond for its satellite system at that location, rather than three such bonds.<sup>11</sup> Requiring a licensee

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<sup>8</sup> See 47 C.F.R. § 25.158(c). Applicants would still seek prior approval of the Commission for such transactions.

<sup>9</sup> *17/24 GHz Order*, at ¶ 146.

<sup>10</sup> See *In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies*, 18 FCC Rcd 10760, at ¶¶ 240-236 (2003) ("[W]ithout this prohibition, it is possible that some parties would file satellite applications simply to obtain a place in a queue to sell to another party willing and able to implement its proposed satellite system.").

<sup>11</sup> Any bonds already posted for the other satellite systems should be returned.

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to post or maintain more than one \$3 million bond for a single satellite system at an orbital location would be unfair and serve no useful purpose.<sup>12</sup>

Because resolution of these uncertainties could facilitate deployment of 17/24 GHz satellite systems, Pegasus asks that the Commission clarify the above issues as soon as possible. Please contact the undersigned if you have any questions.

Very truly yours,



Bruce D. Jacobs  
Tony Lin

Attachment

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<sup>12</sup> See *In the Matter of Telesat Canada*, 22 FCC Rcd 588, at ¶ 14 (2007) (granting waiver request of bond requirement because another entity had already posted a bond for the same satellite).

**EXHIBIT A**

**File Nos.**

SAT-LOA-19970605-00049 (S2242) SAT-AMD-20051118-00226 (S2242) SAT-AMD-20080114-00015 (S2242)	SAT-LOA-19970605-00050 (S2243) SAT-AMD-20051118-00225 (S2243) SAT-AMD-20080114-00016 (S2243)
SAT-LOA-20060412-00042 (S2698) SAT-AMD-20080114-00025 (S2698) SAT-AMD-20080118-00029 (S2698)	SAT-LOA-20070105-00003 (S2725) SAT-AMD-20080114-00022 (S2725) SAT-AMD-20080213-00045 (S2725)
SAT-LOA-20050210-00029 (S2660) SAT-AMD-20051118-00240 (S2660) SAT-AMD-20080114-00012 (S2660) SAT-AMD-20080701-00135 (S2660) SAT-AMD-20080617-00125 (S2660) SAT-AMD-20080701-00134 (S2660)	SAT-LOA-20050210-00030 (S2661) SAT-AMD-20051118-00239 (S2661) SAT-AMD-20080114-00009 (S2661) SAT-AMD-20080617-00124 (S2661) SAT-AMD-20080701-00137 (S2661)
SAT-LOA-19970605-00051 (S2244) SAT-AMD-20051118-00224 (S2244) SAT-AMD-20080114-00017 (S2244) SAT-AMD-20080321-00080 (S2244)	SAT-LOA-20020328-00052 (S2442) SAT-AMD-20051118-00245 (S2442) SAT-AMD-20080114-00020 (S2442) SAT-AMD-20080213-00043 (S2442)
SAT-LOA-20020328-00050 (S2440) SAT-AMD-20051118-00247 (S2440) SAT-AMD-20080114-00018 (S2440) SAT-AMD-20080213-00044 (S2440)	SAT-LOA-20020328-00051 (S2441) SAT-AMD-20051118-00246 (S2441) SAT-AMD-20080114-00019 (S2441) SAT-AMD-20080213-00042 (S2441)
SAT-LOA-20050210-00031 (S2662) SAT-AMD-20051118-00238 (S2662) SAT-AMD-20080114-00008 (S2662) SAT-AMD-20080617-00123 (S2662) SAT-AMD-20080701-00138 (S2662)	SAT-LOA-20050210-00028 (S2659) SAT-AMD-20051118-00241 (S2659) SAT-AMD-20080114-00009 (S2659) SAT-AMD-20080617-00126 (S2659) SAT-AMD-20080701-00134 (S2659)
SAT-LOA-20060908-00100 (S2712) SAT-AMD-20080114-00014 (S2712) SAT-AMD-20080321-00077 (S2712)	SAT-LOA-20060908-00099 (S2711) SAT-AMD-20080114-00013 (S2711)
SAT-LOA-20070105-00001 (S2723) SAT-AMD-20080114-00021 (S2723)	SAT-LOA-20060412-00043 (S2699) SAT-AMD-20080114-00024 (S2699)
SAT-LOA-20060412-00044 (S2700) SAT-AMD-20080114-00023 (S2700)	

**CERTIFICATE OF SERVICE**

I, Renee Williams, hereby certify that on this 1<sup>st</sup> day of August 2008, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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