

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

In the Matter of	)	
	)	
DIRECTV Enterprises, LLC	)	File No. SAT-LOA-20140825-00094
	)	Call Sign S2930
Application to Launch and	)	
Operate DIRECTV 15	)	

**PETITION TO DEFER OF SES AMERICOM, INC.  
AND CIEL SATELLITE LIMITED PARTNERSHIP**

SES Americom, Inc. (“SES Americom”) and Ciel Satellite Limited Partnership (“Ciel,” and with SES Americom, “SES”) hereby petition the Commission to defer action on the operating authority requested in the above-captioned application of DIRECTV Enterprises, LLC (“DIRECTV”) for the DIRECTV 15 Ka-band satellite<sup>1</sup> until such time as DIRECTV has successfully coordinated the RB-2 17/24 GHz Broadcasting Satellite Service (“BSS”) payload aboard the satellite with Ciel. Deferral is required given the International Bureau’s decision with respect to SES-3<sup>2</sup> and the Commission’s obligation to treat similarly-situated applicants alike.

As the Commission is aware, DIRECTV opposed SES Americom’s application to operate SES-3 in the C- and Ku-band frequencies as a replacement for the aging AMC-1 spacecraft at 103° W.L. based on arguments that have nothing to do with the C- and Ku-band operations proposed in the SES-3 application.<sup>3</sup> Instead, DIRECTV’s complaints focused on the Canadian-licensed Ciel-6i payload aboard SES-3, which operates in the 17/24 GHz BSS frequencies

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<sup>1</sup> *DIRECTV Enterprises, LLC*, File No. SAT-LOA-20140825-00094 (“DIRECTV 15 Application”).

<sup>2</sup> *SES Americom, Inc.*, 29 FCC Rcd 3678 (IB 2014) (“*SES-3 Deferral*”).

<sup>3</sup> *See* Petition to Deny or Defer of DIRECTV, LLC, File Nos. SAT-RPL-20121228-00227 & SAT-AMD-20131113-00132, filed Dec. 16, 2013.

pursuant to Canadian International Telecommunication Union (“ITU”) filings that have date priority over the U.S. ITU filings for these bands at the same location. DIRECTV argued that action on the C/Ku-band SES-3 replacement application should be withheld until coordination of the 17/24 GHz BSS frequencies was completed.<sup>4</sup>

Citing DIRECTV’s pleadings and the alleged need “to provide a period” during which DIRECTV and SES Americom could “pursue resolution of coordination matters” relating to the 17/24 GHz BSS spectrum, the International Bureau deferred action on SES-3 replacement authority.<sup>5</sup> The result has been to interfere with SES Americom’s ability to provide timely replacement capacity and strand its investment in that capacity,<sup>6</sup> create uncertainty regarding Ciel’s ability to pursue its business plan for 17/24 GHz BSS operations at this orbital location, and cast doubt on the Commission’s commitment to adhering to ITU principals for international coordination.

As SES has explained, the Bureau’s decision on SES-3 also flies in the face of Commission precedent. Specifically, the Commission has repeatedly rejected requests that it defer grant of operating authority in a frequency band pending completion of coordination of that

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<sup>4</sup> *See id.* at i & 13-14.

<sup>5</sup> *SES-3 Deferral*, 29 FCC Rcd at 3678, ¶ 1

<sup>6</sup> DIRECTV has suggested that there is no urgent need for action on the SES-3 replacement application because the license term for AMC-1 does not expire until October 2016. *See* Letter of William M. Wiltshire, Counsel for DIRECTV Enterprises, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated Feb. 19, 2014 in File Nos. SAT-RPL-20121228-00227 & SAT-AMD-20131113-00132 at 1. Of course, DIRECTV’s argument ignores the waste of satellite resources resulting from the unavailability of AMC-1 for an alternate mission until its traffic has been transferred to SES-3. In any event, if the Commission accepts DIRECTV’s contention then there is certainly no urgency with respect to authorizing DIRECTV 15 to provide Ka-band capacity at a location where DIRECTV already operates three Ka-band satellites, the oldest of which (SPACEWAY 1) has a license term that extends until October 2020.

band,<sup>7</sup> yet the Bureau withheld C- and Ku-band replacement authority for SES-3 pending completion of coordination for the 17/24 GHz BSS frequencies. The Commission must promptly correct this error by granting full C- and Ku-band authority for SES-3.

If the Commission instead persists in linking replacement authority for SES-3 to coordination of the 17/24 GHz BSS band, it must make the same linkage here and withhold operating authority for DIRECTV 15 until the 17/24 GHz BSS coordination has been completed. It is axiomatic that the Commission must treat similarly-situated parties in a similar manner.<sup>8</sup> In its application, DIRECTV makes no attempt to distinguish the SES-3 precedent or otherwise explain the clear inconsistency between DIRECTV's arguments on SES-3 and its request to operate DIRECTV 15 notwithstanding its failure to complete 17/24 GHz BSS coordination.<sup>9</sup> Thus, if the Commission's policy going forward will be that coordination in all bands on a satellite must be completed before operating authority for any payload can be granted, as indicated by the *SES-3 Deferral*, there is no reason to make an exception for DIRECTV 15.

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<sup>7</sup> See Petition to Deny of SES Americom, Inc. and Ciel Satellite Limited Partnership, File Nos. SAT-MOD-20140612-00066 & SAT-MOD-20140624-00075, filed Sept. 2, 2014 at 22 & n.60.

<sup>8</sup> See, e.g., *Freeman Engineering Assoc., Inc. v. Federal Communications Commission*, 103 F.3d 169 (D.C. Cir. 1997); *Melody Music, Inc. v. Federal Communications Commission*, 345 F.2d 730 (D.C. Cir. 1965).

<sup>9</sup> The one significant factual difference between DIRECTV's situation and that of SES Americom is that the Ciel-6i payload aboard SES-3 has ITU priority, and the RB-2 payload aboard DIRECTV 15 does not. That difference would make it even more incongruous if the Commission granted operating authority to DIRECTV 15 but continues to withhold it for SES-3.

Accordingly, unless the Commission returns to its long-standing interpretation of coordination requirements and grants immediate operating authority for SES-3, it must withhold operating authority for DIRECTV 15 pending coordination with Ciel.

Respectfully submitted,

**SES Americom, Inc.**

/s/ Daniel C.H. Mah

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Dated: November 3, 2014

**Ciel Satellite Limited Partnership**

/s/ Scott Gibson

Scott Gibson  
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CANADA

AFFIDAVIT

I, Michael Bernard Haughian, hereby declare under penalty of perjury that I am Managing Director of Ciel Satellite Limited Partnership ("Ciel") and that I have reviewed the foregoing Petition and that all the factual statements therein relating to Ciel are true and correct to the best of my knowledge, information, and belief.

  
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Michael Bernard Haughian  
Managing Director  
Ciel Satellite Limited Partnership

Dated: November 3, 2014

AFFIDAVIT

I, Gerald E. Oberst, hereby declare under penalty of perjury that I am President and CEO of SES Americom, Inc. (“SES Americom”) and that I have reviewed the foregoing Petition and that all the factual statements therein relating to SES Americom are true and correct to the best of my knowledge, information, and belief.

*/s/ Gerald E. Oberst*

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Gerald E. Oberst  
President and CEO  
SES Americom, Inc.

Dated: November 3, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of November, 2014, a true copy of the foregoing "Petition to Defer of SES Americom, Inc. and Ciel Satellite Limited Partnership" is being sent by first class, U.S. Mail, postage paid, to the following:

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/s/ \_\_\_\_\_  
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