

**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)	

REPLY 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 submit this reply regarding the above-captioned application of DIRECTV Enterprises, LLC (“DIRECTV”) for the DIRECTV 15 Ka-band satellite.¹ SES’s Petition in this proceeding demonstrates that until DIRECTV has successfully coordinated the RB-2 17/24 GHz Broadcasting Satellite Service (“BSS”) payload aboard DIRECTV 15 with Ciel, the precedent established regarding SES-3 requires the Commission to defer granting operational authority for DIRECTV 15.² DIRECTV’s Opposition³ provides no possible grounds to act on DIRECTV 15 while the SES-3 replacement application filed nearly two years ago remains pending.

In particular, the sole rationale provided by the International Bureau for withholding full operational authority for SES-3 was the alleged need “to provide a period” during which

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

² Petition to Defer of SES Americom, Inc. and Ciel Satellite Limited Partnership, File No. SAT-LOA-20140825-00094, filed Nov. 3, 2014 (“SES Petition”), *citing SES Americom, Inc.*, 29 FCC Rcd 3678 (IB 2014) (“*SES-3 Deferral*”). DISH Operating L.L.C. (“DISH”) made similar arguments in its Petition to Deny or Defer the DIRECTV 15 Application. Petition to Deny or Defer, File No. SAT-LOA-20140825-00094, filed Nov. 3, 2014 (“DISH Petition”).

³ Consolidated Opposition of DIRECTV Enterprises, LLC, File No. SAT-LOA-20140825-00094, filed Nov. 17, 2014 (“DIRECTV Opposition”).

DIRECTV and SES Americom could “pursue resolution of coordination matters” relating to the 17/24 GHz BSS spectrum.⁴ As SES has explained, the Bureau’s decision on SES-3 is contrary to the long-standing precedent establishing that a licensee accepts the risks associated with international coordination and ignores the repeated Commission refusals to defer grant of operating authority pending completion of coordination.⁵ But if one accepts the Bureau’s justification regarding SES-3 at face value, that same rationale must be applied here and compels deferring operational authority for DIRECTV 15. Both the SES-3 and DIRECTV 15 spacecraft carry 17/24 GHz BSS payloads for which coordination has not yet been completed, and like the SES-3 application, the DIRECTV 15 Application seeks authority in other bands with no open coordination issues. If the unresolved 17/24 GHz coordination at this orbital location justifies holding up C- and Ku-band replacement authority for SES-3, then fundamental fairness and the Commission’s obligation to treat similarly-situated applicants consistently require deferral of Ka-band operating authority for DIRECTV 15 based on the same unresolved coordination.⁶

Rather than providing a reasoned basis for differential treatment of DIRECTV 15, DIRECTV’s Opposition largely rehashes arguments from the SES-3 proceeding that SES has comprehensively refuted. For example, SES Americom has shown that its approach to licensing SES-3 is completely consistent with Commission precedent.⁷ Furthermore, the Ciel-6i 17/24 GHz payload aboard SES-3 is no more a “token”⁸ than the interim 17/24 GHz RB-2A

⁴ *SES-3 Deferral*, 29 FCC Rcd at 3678, ¶ 1.

⁵ *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.

⁶ *See* SES Petition at 3 & n.8; DISH Petition at 3-4 & nn.12 & 13.

⁷ Opposition of SES Americom, Inc., File Nos. SAT-RPL-20121228-00227 & SAT-AMD-20131113-00132, filed Dec. 24, 2013 (“SES Opposition”) at 4-6.

⁸ DIRECTV Opposition at 4.

payload that DIRECTV itself deployed at this orbital location.⁹ To the contrary, as its request for U.S. market access makes clear, DISH proposes to use the Ciel-6i payload to evaluate the provision of video and data services for its planned terrestrial wireless broadband network.¹⁰ DIRECTV's claims about discrepancies between the technical characteristics of the Ciel-6i payload and the underlying Canadian ITU filing¹¹ are also without merit, as the payload is clearly capable of operating within the technical envelope described by the filing, as contemplated by the ITU regulations.

Ultimately, however, DIRECTV's arguments that differences between SES-3 and DIRECTV 15 warrant different regulatory treatment of the two satellites¹² are simply irrelevant given the narrow underpinnings of the International Bureau's decision on SES-3. Specifically, nothing in the *SES-3 Deferral* suggests that either the fact that the 17/24 GHz BSS payload on SES-3 is Canadian-licensed or the history of the SES-3 satellite was the basis for deferral of replacement authority for SES-3. Again, the only reason given by the Bureau for withholding SES-3 replacement authority was the unresolved coordination relating to the 17/24 GHz BSS frequencies.¹³ DIRECTV's attempts to supply alternate, *post hoc* rationalizations for the Bureau's order are therefore unavailing.

Thus, unless the Commission applies its prior holdings on coordination, severs the inappropriate linkage to coordination of the 17/24 GHz BSS frequencies on which the *SES-3 Deferral* relies, and promptly grants full replacement authority for SES-3, it cannot confer an

⁹ SES Opposition at 11-12.

¹⁰ See DISH Operating L.L.C., File No. SES-LFS-20140924-00752, Narrative at 1.

¹¹ DIRECTV Opposition at 2-3.

¹² *Id.* at 2-4.

¹³ *SES-3 Deferral*, 29 FCC Rcd at 3678 & 3681, ¶¶ 1, 8-9.

operating license for DIRECTV 15 at this time. Instead, action on DIRECTV 15 must be deferred until such time as DIRECTV complies with its obligation under ITU and Commission regulations to coordinate its proposed 17/24 GHz BSS network with the higher-priority Ciel-6i payload.

Respectfully submitted,

SES Americom, Inc.

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Dated: November 26, 2014

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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 Reply and that all the factual statements therein relating to Ciel are true and correct to the best of my knowledge, information, and belief.




Michael Bernard Haughian
Managing Director
Ciel Satellite Limited Partnership

Dated: November 26, 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 Reply and that all the factual statements therein relating to SES Americom are true and correct to the best of my knowledge, information, and belief.



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

Dated: November 26, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of November, 2014, a true copy of the foregoing “Reply 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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