

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

In the Matter of

Intelsat License LLC	)	
	)	
Application for Authority to Launch and	)	File Nos. SAT-LOA-20170524-00078
Operate Galaxy 15R, a Replacement	)	and SAT-AMD-20170613-00086
Satellite With New Frequencies, at	)	Call Sign S3015
133.0° W.L. (227.0° E.L.)	)	

*Permit-but-Disclose Status Requested*

**PETITION TO DEFER OR DENY, IN PART, OF EUTELSAT S.A.**

Eutelsat S.A. (“Eutelsat”), pursuant to Section 25.154(a) of the Commission’s rules,<sup>1</sup> respectfully submits this Petition To Defer or Deny, In Part (“Petition”), regarding the Ku-band and Ka-band portions of the above-captioned application, as amended (“Application”), of Intelsat License LLC (“Intelsat”).<sup>2</sup> Intelsat requests a license to operate the Galaxy 15R satellite at the 133° West Longitude (“W.L.”) orbital location in C-band (as a replacement for Galaxy 15), as well as in new Ku-band and Ka-band frequencies at that location. However, Ku-band and Ka-band satellite network filings of the French Administration have earlier date priority at 133°W.L. under the International Telecommunication Union (“ITU”) Radio Regulations (i.e., they were filed earlier in

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<sup>1</sup> 47 C.F.R. § 25.154(a).

<sup>2</sup> This Petition is filed in response to the public notice regarding the C-band and Ku-band portions of the Intelsat Application. *See Policy Branch Information, Space Station Applications Accepted for Filing*, Public Notice Report No. SAT-01284 (Nov. 24, 2017) (Call Sign S3105, File No. SAT-LOA-20170524-00078). The Ka-band portion of the Intelsat Application was placed on public notice a week later. *See Policy Branch Information, Space Station Applications Accepted for Filing*, Public Notice Report No. SAT-01286 (Dec. 1, 2017) (Call Sign S3105, File No. SAT-AMD-20170613-00086).

time and thus have an earlier ITU protection date), and Eutelsat plans to operate under these filings prior to the deployment of Intelsat's proposed satellite.<sup>3</sup>

Specifically, Eutelsat is preparing a request for U.S. market access to enable an in-orbit Ku-band satellite, which will be relocated and commence operations at 133°W.L. by mid-2018, to serve the United States and other markets. Eutelsat is also preparing a separate request for U.S. market access for a purpose-built, Ku-band/Ka-band satellite that will serve the United States and other markets from this location beginning in the mid-2021 time frame. Eutelsat's near-term and longer-term operations at 133°W.L. will predate the proposed deployment of Galaxy 15R and, given their earlier ITU date priority, may well preclude Intelsat's proposed Ku-band and Ka-band operations.

Accordingly, Eutelsat respectfully requests that the Commission (i) defer the Ku-band and Ka-band portions of the Intelsat Application<sup>4</sup> to afford time to consider the impact of Eutelsat's impending requests for U.S. market access and, to the extent possible, coordinate Intelsat's proposed operations with the earlier French filings; or (ii) in the alternative, subject to Eutelsat's request for U.S. market access in available Ku-band and Ka-band FSS frequencies at 133° W.L., deny mutually exclusive portions of the Intelsat Application. Eutelsat also requests that this application proceeding be granted permit-but-disclose status for purposes of the Commission's *ex parte* rules.

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<sup>3</sup> The French satellite network filings at 133° W.L. include F-SAT-N4-133W, F-SAT-N5-133W, and F-SAT-E-30B-133W, which cover the full range of Ku-band and Ka-band frequencies at this orbital location allocated by the ITU to fixed-satellite service ("FSS").

<sup>4</sup> This Petition does not address Intelsat's proposal to operate in C-band frequencies at 133° W.L. for which the United States has earlier ITU date priority.

Eutelsat's preferred outcome – brief deferral of the Ku-band and Ka-band portions of the Intelsat Application to facilitate consideration of Eutelsat's proposed operations under ITU satellite network filings with earlier ITU date priority – would have no material impact on a proposed satellite schedule that stretches into 2022. Rather, additional time would ensure that the Commission and interested parties can fully consider the impact of Eutelsat's near-term and longer-term operations at 133° W.L. to maximize the public interest benefits of authorized satellite operations at that location.

## **I. DISCUSSION**

Intelsat is currently operating the Galaxy 15 satellite in C-band frequencies at the 133° W.L. orbital location and seeks to replace that satellite, as well as add new Ku-band and Ka-band operations, with proposed deployment of the Galaxy 15R satellite in 2022. Although the United States has earlier ITU date priority in C-band at 133° W.L., France has earlier ITU date priority in Ku-band and Ka-band frequencies and Eutelsat plans to operate in those bands at this location prior to deployment of Galaxy 15R.

Eutelsat is preparing and will file next month both a request for near-term U.S. market access for an in-orbit satellite to operate in Ku-band frequencies at 133°W.L., as well as a separate request for long-term U.S. market access to operate in both Ku-band and Ka-band frequencies at this orbital location. In this connection, Eutelsat is working with governmental authorities to authorize relocation and operation of the satellite in a portion of available Ku-band FSS spectrum at 133°W.L. by mid-2018, until a new, purpose-built Ku-band/Ka-band satellite is deployed in the mid-2021 time frame that will provide a wide range of advanced satellite communications services to the United States and other markets.

Eutelsat’s planned operations will have a direct and material impact on the ability of Galaxy 15R to operate at 133° W.L. Although the Commission’s satellite licensing rules envision a potential license grant subject to the outcome of ITU coordination,<sup>5</sup> they also fully recognize ITU date priority constraints and contemplate that U.S.-licensed satellites may be unable to operate upon launch and operation of a foreign satellite with earlier ITU date priority.<sup>6</sup>

In this case, the Commission has not yet granted Intelsat a satellite license to operate in Ku-band and Ka-band frequencies at 133° W.L., and Eutelsat will operate in these bands under foreign satellite network filings with earlier ITU date priority at the same location before launch of Intelsat’s proposed satellite. Accordingly, Eutelsat seeks

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<sup>5</sup> See *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, IB Docket No. 12-267, Second Report and Order, FCC 15-167, 30 Commission Rcd 14713 (2015), at ¶ 42 (the Commission can accept for filing but generally will defer action on a market access request “...until after we have resolved the earlier-filed application or mutual exclusivity concerns have been eliminated through coordination between the parties involved. This is true even in cases where the foreign operator makes use of an ITU filing with an earlier date of protection than the U.S. filing relied upon by the applicant.... Any U.S. license granted, however, will be subject to the outcome of the international coordination process. This may mean that the U.S. licensee may not be able to operate its system if the coordination cannot be appropriately completed.”).

<sup>6</sup> See, *id.*; see also *Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54, FCC 03-102 (rel. May 19, 2003), at ¶96 (“Moreover, we expect U.S. licensees to abide by international regulations when their systems are coordinated. This may mean that the U.S.-licensee may not be able to operate its system if the coordination cannot be appropriately completed. Indeed, with the first-come, first-served approach, we assign applicants to the orbit location that is requested. Consequently, the applicant assumed the coordination risk when choosing that particular orbit location at the time it submitted its application.”).

the reasonable relief of additional time to enable appropriate consideration of its planned near-term and longer-term Ku-band and Ka-band operations at 133° W.L.

#### **A. Request To Defer Consideration**

Eutelsat seeks brief deferral of the Intelsat Application to afford time for the Commission to consider the impact of Eutelsat's impending requests for U.S. market access and, to the extent possible, to permit coordination of Intelsat's proposed Ku-band and Ka-band operations with the French filings. Although formal deferral for a specified period may be unnecessary given typical satellite application processing times, Eutelsat nonetheless seeks such relief to ensure the Commission and interested parties have an opportunity to consider these important issues.

Such consideration is appropriate given ITU date priority concerns and planned deployment time frames at 133° W.L. Granting the Intelsat Application without considering Eutelsat's planned operations could necessitate subsequent modification or even cancellation of the Ku-band and Ka-band portions of any satellite license given the need to accommodate earlier ITU date-priority, earlier-in-time operations.

In contrast, affording time for consideration of Eutelsat's market access requests will enable the parties to evaluate potential compatibility issues and various approaches to accommodate planned satellite operations at 133° W.L., and amend their proposals as appropriate, to facilitate full and final consideration by the Commission. This will conserve scarce Commission resources and enable the parties to cooperatively consider options to maximize the public benefit of authorized satellite operations at this location. Therefore, the requested deferral would serve the public interest in the circumstances presented here.

## **B. Alternative Request To Deny**

If the Commission cannot afford interested parties additional time to consider Eutelsat's planned near-term and longer-term Ku-band and Ka-band operations at 133° W.L., then Eutelsat respectfully requests that these portions of the Intelsat Application be denied. Although this is not Eutelsat's preferred outcome, absent coordination it is necessitated by the Commission's well-settled satellite licensing policies.

The Commission has made clear that, absent successful coordination with earlier date-priority satellite, "a U.S. licensed satellite making use of an ITU filing with a later protection date would be required to cease service to the U.S. market immediately upon launch and operation of a non-U.S. licensed satellite with an earlier protection date, or be subject to further conditions."<sup>7</sup> In this case, French-licensed satellites making use of ITU filings with earlier protection dates will commence operations before the proposed launch of Galaxy 15R. Eutelsat will shortly relocate an existing, in-orbit satellite that will bring certain Ku-band frequencies of the French ITU filings at 133° W.L. into use by mid-2018; and a new, purpose-built satellite will operate across all available Ku-band and Ka-band FSS frequencies at that location by mid-2021.

While the Commission may license a U.S. satellite at locations where another Administration has earlier ITU priority "subject to the outcome of the international coordination process," absent coordination the ultimate goal of bringing competitive satellite services to the U.S. market would be better served by denial of the Ku-band and Ka-band portions of the Intelsat Application. If the parties are not granted time to

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<sup>7</sup> *Amendment of the Commission's Space Station Licensing Rules and Policies*, IB Docket No. 02-34, Second Order on Reconsideration, Commission 16-108, 31 Commission Rcd 9398 (2016), at ¶ 32.

explore compatibility issues and approaches to accommodate planned satellite operations at 133° W.L., mutual exclusivity can be assumed because Eutelsat will operate at this location across all available Ku-band and Ka-band FSS frequencies pursuant to French ITU filings with earlier date priority before Intelsat's proposed satellite will be launched. It would be a wasteful and inefficient use of scarce Commission administrative resources to grant a satellite license, even on a conditional basis, that effectively will be unable to operate as presently proposed.

### **C. Permit-But-Disclose Status**

Eutelsat respectfully requests that the Commission designate as “permit but disclose” the *ex parte* status of this application proceeding. The Commission has discretion to modify the application of its *ex parte* rules in any particular proceeding where, as here, the public interest warrants doing so.<sup>8</sup>

Designating this application proceeding as “permit-but-disclose” under Section 1.1206 of the Commission's rules, rather than “restricted” under Section 1.1208 of the rules,<sup>9</sup> would facilitate more thorough consideration of the unique public interest issues presented here and ensure a more complete record for the Commission to take appropriate action on the Intelsat Application.

## **II. CONCLUSION**

As discussed above, deferral of the Ku-band and Ka-band portions of Intelsat Application is warranted given (i) Eutelsat's near-term and longer-term plans to operate

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<sup>8</sup> See 47 C.F.R. § 1.1200(a).

<sup>9</sup> See 47 C.F.R. §§ 1.1206, 1.1208.

at 133° W.L., (ii) existing ITU date priority and compatibility concerns, (iii) minimal impact on the proposed satellite's development and deployment timelines, (iv) the desire to conserve the Commission's scarce administrative resources, and (v) the significant public benefits associated with authorizing compatible satellite operations at 133° W.L. that can provide services to the U.S. market consistent with Commission policy and international requirements. If the Commission does not defer those portions of the Intelsat Application, it would be contrary to the public interest to grant them, even conditionally, given mutual exclusivity concerns arising from Eutelsat's plans to operate at the 133° W.L. orbital location under French filings with earlier ITU date priority.

Respectfully submitted,



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*On behalf of Eutelsat S.A.*

December 26, 2017

## CERTIFICATE OF SERVICE

I, Jennifer White, do hereby certify that on December 26, 2017, I served a true and correct copy of the Petition to Defer or Deny, In Part, of Eutelsat S.A. by first-class mail on the following:

*For Intelsat License LLC:*

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