



January 18, 2018

By Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Written *Ex Parte* Notice
Hughes Network Systems, LLC
Application for Authority to Launch and Operate a Ka- and Q/V-band Geostationary
Orbit Satellite at the Nominal 95° W.L. Orbital Location
IBFS File Nos. SAT-LOA-20170621-00092 & SAT-AMD-20170908-00128

Dear Ms. Dortch:

Hughes Network Systems, LLC (Hughes), hereby responds to The Boeing Company's (Boeing) January 9 *ex parte* letter¹ regarding the above-referenced application (Application) for a Ka- and Q/V-band geostationary satellite orbit (GSO) satellite (Hughes 95W) at the nominal 95° W.L. orbital location. As with its other filings in this proceeding, Boeing's *ex parte* letter raises no issues that would delay grant of the Application. Indeed, by its own admission, Boeing has stated that it "is ***not*** requesting ... dismiss[al]" of the Application.² Nonetheless, as with its other filings in this proceeding, Boeing's *ex parte* letter contains a number of misstatements of law and fact that should be corrected or struck from the record.

First, contrary to Boeing's misstatements,³ the Commission has no existing or prior rule or policy requiring dismissal of the Q/V-band GSO portion of the Application prior to any grant of pending Q/V-band non-geostationary satellite orbit (NGSO) applications in the current processing round. Under Section 25.156(d)(5) of the Commission's rules, which has been eliminated effective January 17, 2018, the Commission "will not consider applications for GSO-like operation ***after it has granted*** an application for NGSO-like operation in the same band."⁴ The rule, however, does not bar Commission consideration, or provide for Commission dismissal, of GSO applications ***prior to grant*** of any NGSO application in a processing round.

¹ See Letter from Bruce A. Olcott, Counsel to The Boeing Company, to Marlene H. Dortch, Secretary, Federal Communications Commission, IBFS File Nos. SAT-LOA-20170621-00092 & SAT-AMD-20170908-00128 (filed Jan. 9, 2018) ("Boeing January 9 Letter"). Unless otherwise specified, all other filings in this proceeding will be short-cited without reference to file numbers.

² See Comments of Boeing, at 2 (Nov. 13, 2017) (emphasis added).

³ See Boeing January 9 Letter at 1-2.

⁴ See 47 C.F.R. § 25.156(d)(5) (emphasis added); *Updates Concerning Non-Geostationary Fixed Satellite Service Systems and Related Matters*, 82 Fed. Reg. 59972 (Dec. 18, 2017) ("NGSO Order FR Summary").

Additionally, in order to implement the prior rule under Section 25.156(d)(5), the Commission explained that, if an NGSO application in a particular frequency band is filed first, “we will conduct a processing round [for NGSO applications in the band] ... and we will dismiss subsequently-filed GSO-like satellite system applications in that band.”⁵ This stated policy, however, also does not provide for Commission dismissal of GSO applications *prior to grant* of any NGSO application in a processing round. Consequently, because the Commission has not yet granted any NGSO application in the current Q/V-band processing round, neither the prior rule under Section 25.156(d)(5) nor the Commission’s stated policy implementing the rule is applicable to permit Commission dismissal of the Application here.

Second, contrary to Boeing’s misguided claim,⁶ the recent effective date of the Commission’s rule and policy revisions adopted in the *NGSO Order*,⁷ including elimination of Section 25.156(d)(5), has no bearing on whether the prior Commission policy remains applicable to permit dismissal of the Application. Even if the prior policy were to remain in effect, it is nonetheless inapplicable to permit dismissal of the Application here, as noted above. Moreover, to the extent that the Commission has applied an informal policy of dismissing GSO applications prior to granting a NGSO application in a processing round, the Commission also has authority to discontinue such informal policy at any time and without having to await the effective date of its rule and policy revisions adopted in the *NGSO Order*.

Third, although Boeing claims that its position regarding the processing of pending Q/V-band NGSO applications has been misconstrued as seeking equal treatment regarding GSO-NGSO interference protection,⁸ any such misinterpretation may be fairly attributed to Boeing’s initial comments in the record containing certain broad, opaque language. Notably, Boeing’s initial comments broadly urged the Commission to “avoid any action that may be viewed either domestically or within the ITU-R process as favoring GSO FSS networks over NGSO FSS systems in the Q/V-band.”⁹ Because the language could be fairly read as a request for co-equal interference protection status for both GSO and NGSO systems in the Q/V-band, Hughes properly raised concerns with such request. Since Boeing has now clarified and limited its request as seeking equal treatment with respect to Commission processing of GSO and NGSO applications, Hughes has no objection to such request. With respect to interference protection, Hughes reiterates its request that the Commission: (i) condition any grant of Boeing’s and other Q/V-band NGSO applications upon compliance with any applicable EPFD or other technical limits that may be adopted by the Commission or ITU; and (ii) require Boeing and all other Q/V-

⁵ See *Amendment of the Commission Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760, ¶ 58 (2003).

⁶ See Boeing January 9 Letter at 2.

⁷ See *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809 (2017) (“*NGSO Order*”); see also *NGSO Order FR Summary*.

⁸ See Boeing January 9 Letter at 2.

⁹ Comments of Boeing at 5.

band NGSO applicants to demonstrate compliance with interim/default EPFD limits comparable to the ITU's Article 22 EPFD limits (both single-entry and aggregate.).¹⁰

Fourth, Hughes urges the Commission to disregard Boeing's request that it require Hughes to "incorporate sufficient margin in its link budget to ensure that it can operate pursuant to the protection criteria that is ultimately adopted by WRC-19."¹¹ Such condition is unnecessary. Satellite operators seeking use of spectrum not currently subject to band-specific service rules are already on notice by the Commission's rules that they will be required to comply with band-specific service rules adopted in the future. Specifically, operators are required "to come into compliance with the frequency band-specific service rules within 30 days of the effective date of those rules."¹² This rule is more than sufficient to ensure that Hughes will operate within the parameters of any band-specific service rules adopted for Q/V-band GSO operations.

As Boeing has not raised any issues on the merits of the Application or requiring additional processing or review, Hughes urges the Commission to grant the Application expeditiously.

Please direct any questions regarding this matter to the undersigned.

Respectfully Submitted,

/s/ Jennifer A. Manner

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¹⁰ See, e.g., Letter from Jennifer A. Manner and Brennan Price, Hughes, to Marlene H. Dortch, Secretary, FCC, at 2 (July 17, 2017).

¹¹ Boeing January 9 Letter at 2-3.

¹² 47 C.F.R. § 25.217(e). Hughes specifically addressed this rule section in its application. Hughes 95W Application, Narrative at 8.

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that the foregoing letter was served on January 18, 2018, by the U.S. Postal Service, first-class postage pre-paid, to the following:

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/s/ Theresa L. Rollins
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