

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

In the Matter of	)	
	)	
SES AMERICOM, INC.	)	File Nos. SAT-MOD-_____
	)	Call Signs S2807 & S2826
Application for Modification of	)	
SES-1 and SES-2 Space Station Licenses	)	

**APPLICATION OF SES AMERICOM, INC.**

SES Americom, Inc. (“SES Americom,” doing business as “SES”) hereby submits this modification application pursuant to the Public Notice announcing a filing deadline of March 15, 2012, for compliance with new information requirements in the 17/24 GHz Broadcasting-Satellite Service (“BSS”).<sup>1</sup> SES respectfully requests grant of any necessary waiver of the March 15 deadline in connection with the 17/24 GHz BSS payloads of the SES-1 and SES-2 satellites. Because SES has not sought or received operational authority for these payloads, no purpose would be served by requiring submission of additional information regarding the payloads at this time. Accordingly, grant of the requested waiver is consistent with Commission precedent and will serve the public interest.

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<sup>1</sup> See International Bureau Announces Effective Date for New Information Requirements in the 17/24 GHz Broadcasting-Satellite Service and Establishes Filing Deadline for Pending Applications and Current Authorizations, DA 12-71, Report No. SPB-239 (rel. Jan. 20, 2012) (the “17/24 GHz Public Notice”).

A completed FCC Form 312 is attached. SES incorporates by reference the technical information previously provided in support of SES-1<sup>2</sup> and SES-2,<sup>3</sup> which remains unchanged. Accordingly, no fee is due for this application.<sup>4</sup>

## **BACKGROUND**

The SES-1 and SES-2 satellites are replacement C/Ku-band hybrid spacecraft, each of which carries an inactive 17/24 GHz BSS payload. SES-1 was launched in April 2010 and replaced AMC-4 at 101° W.L. SES-2 was launched in September 2011 and replaced AMC-3 at 87° W.L.

The application materials for both SES-1 and SES-2 made clear that SES was not seeking operational authority for the satellites' 17/24 GHz BSS payloads. For example, SES stated that it did "not intend to use [the SES-1 17/24 GHz BSS] payload at 101° W.L. and therefore [was] not seeking a Commission operating license for the payload."<sup>5</sup> Similarly, in the SES-2 application, SES indicated that it did "not seek a license to operate the SES-2 17/24 GHz BSS payload at the satellite's requested 87° W.L. orbital location."<sup>6</sup>

In acting on the SES-1 and SES-2 applications, the Commission explicitly limited the authority conferred with respect to the 17/24 GHz BSS payloads on the satellites.

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<sup>2</sup> See Call Sign S2807, File Nos. SAT-RPL-20100120-00014 & SAT-AMD-20100309-00040, grant-stamped Apr. 20, 2010 ("SES-1 Grant").

<sup>3</sup> See Call Sign S2826, File Nos. SAT-RPL-20110429-00082 & SAT-AMD-20110613-00107, grant-stamped Sept. 1, 2011 ("SES-2 Grant").

<sup>4</sup> See 17/24 GHz Public Notice at 2 (no fee required for conforming license modifications if remaining information on file with the Commission is unchanged).

<sup>5</sup> Call Sign S2807, File No. SAT-AMD-20100309-00040, Amendment Narrative at 1.

<sup>6</sup> Call Sign S2826, File No. SAT-RPL-20110429-00082, Narrative at 5.

Specifically, the Commission stated that it was granting “authority to construct and launch” each satellite with the “capability of operating” in the 17/24 GHz BSS frequency bands but was not awarding operational authority.<sup>7</sup> The Commission went on to explain that “[g]rant of construction and launch authority for this 17/24 GHz BSS capacity does not convey to SES Americom any status under the Commission’s first-come, first-served processing framework with respect to the 17/24 GHz BSS capacity on this satellite.”<sup>8</sup> Instead, the Commission emphasized that in constructing and launching the satellite without operational authority for the 17/24 GHz BSS capacity, SES was acting at its own risk.<sup>9</sup>

Both the SES-1 and SES-2 Grants were made subject to the outcome of “the Commission’s rulemaking in IB Docket No. 06-123 and any requirements subsequently adopted therein.”<sup>10</sup> In that rulemaking, the Commission considered issues relating to the mitigation of space path interference between 17/24 GHz BSS downlinks and the reception of co-frequency feeder links and telecommand signals by Direct Broadcast Satellite Service (“DBS”) spacecraft. In a June 2011 order, the Commission addressed these issues by requiring 17/24 GHz BSS applicants and licensees to submit detailed antenna off-axis gain data.<sup>11</sup> The new informational

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<sup>7</sup> SES-1 Grant at ¶ 6; SES-2 Grant at ¶ 6.

<sup>8</sup> SES-1 Grant at ¶ 6; SES-2 Grant at ¶ 6.

<sup>9</sup> SES-1 Grant at ¶ 6(a); SES-2 Grant at ¶ 6(a).

<sup>10</sup> SES-1 Grant at ¶ 6(b); SES-2 Grant at ¶ 6(b).

<sup>11</sup> *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 Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, Second Report and Order, IB Docket No. 06-123, FCC 11-93 (rel. June 14, 2011) (“17/24 GHz Second R&O”).

rules go into effect on March 15, 2012, and the 17/24 GHz Public Notice outlines the procedures for filing the required data.

### **WAIVER REQUEST**

SES respectfully requests any necessary waiver of the March 15 deadline for submission of the information required by the rules adopted in the 17/24 GHz Second R&O with respect to the SES-1 and SES-2 17/24 GHz BSS payloads. No purpose would be served by mandating that SES file the specified information at this time.

As a threshold matter, it is unclear whether SES is subject to the filing deadline in connection with SES-1 and SES-2. The 17/24 GHz Public Notice states that modification applications must be filed no later than March 15 by any entity that is a “current 17/24 GHz BSS authorization holder” in order to demonstrate that the “authorized system complies with all rules adopted” in the 17/24 GHz Second R&O.<sup>12</sup> As discussed above, SES has not requested or received operating authority for the SES-1 and SES-2 17/24 GHz BSS payloads. Instead, prior to the launch of each spacecraft, SES obtained only the necessary Commission authority for the payloads’ construction and launch. In SES’s view, the construction and launch authority for SES-1 and SES-2 does not constitute a “current” 17/24 GHz BSS authorization that would give rise to a filing obligation under the terms of the 17/24 GHz Second R&O and 17/24 GHz Public Notice. After all, the provision of information for purposes of addressing space-path interference for 17 GHz transmissions is irrelevant in the absence of authority to make such transmissions.

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<sup>12</sup> 17/24 GHz Public Notice at 2 (emphasis omitted). *See also* 17/24 GHz Second R&O at ¶ 64 (directing the International Bureau to issue a Public Notice that will “require current authorization holders to file a modification application that demonstrates compliance with the rules we adopt here today, and to supplement the file with all required information”).

Nevertheless, out of an abundance of caution, and to the extent that the Commission determines that the March 15 deadline does apply to the SES-1 and SES-2 licenses, SES requests that the deadline be waived. Grant of such waiver is consistent with Commission policy:

The Commission may waive a rule for good cause shown. Waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule. Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in question and would otherwise serve the public interest.<sup>13</sup>

Because SES is not authorized to operate the SES-1 and SES-2 17/24 GHz BSS payloads, requiring SES to submit information now regarding their off-axis antenna performance would not serve any useful purpose. Furthermore, because the SES-1 and SES-2 17/24 GHz BSS payloads have no status under the Commission's first-come, first-served processing framework, grant of a waiver will not conflict with the policy underlying the information submission requirements.

The 17/24 GHz Second R&O sets forth a detailed rationale for the adoption of the new information submission provisions regarding 17/24 GHz BSS off-axis antenna performance, which is to protect nearby DBS satellites from interference from transmissions in the 17 GHz band:

Clearly, in cases where the 17/24 GHz BSS operator seeks to operate near an established DBS satellite, the transmitting antenna off-axis gain information for the 17 GHz transmitting antenna needs to be available to determine whether the 17/24 GHz BSS network will cause harmful interference into the existing DBS system. It also must be available for the benefit of DBS operators who

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<sup>13</sup> *PanAmSat Licensee Corp.*, 17 FCC Rcd 10483, 10492 (Sat. Div. 2002) (footnotes omitted).

may eventually seek to launch replacement satellites at that same location.<sup>14</sup>

The decision goes on to determine that the specified off-axis data must be provided even by 17/24 GHz BSS operators who do not seek a location near an existing DBS system:

In addition, it is possible that future new [DBS] entrants may seek to operate at locations that are not designated in the Region 2 BSS and Feeder Link Plans, but that are in the vicinity of established 17/24 GHz BSS space stations. Thus, we believe that the off-axis gain information of the transmitting 17 GHz band antennas should be publicly available at all locations so that such future DBS operators can make the appropriate system design decisions necessary to avoid receiving harmful interference from an established 17/24 GHz BSS space station.<sup>15</sup>

Waiver of the March 15 deadline for submission of off-axis antenna information for the SES-1 and SES-2 17/24 GHz BSS payloads will not undermine the Commission's policy objectives in either of these factual scenarios. Again, SES has not requested or received operational authority for the 17/24 GHz BSS payloads on SES-1 and SES-2. As a result, SES is not a "17/24 GHz BSS operator [that] seeks to operate near an established DBS satellite"<sup>16</sup> as described in paragraph 46 of the 17/24 GHz Second R&O.

Nor is submitting additional information regarding the SES-1 and SES-2 17/24 GHz BSS payloads necessary to facilitate planning for prospective future DBS operators as discussed in paragraph 47 of the 17/24 GHz Second R&O. The SES-1 and SES-2 satellites' 17 GHz band antennas are not transmitting, and therefore do not need to be considered by such future applicants. In addition, the Commission has explicitly stated that the SES-1 and SES-2

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<sup>14</sup> 17/24 GHz Second R&O at ¶ 46.

<sup>15</sup> *Id.* at ¶ 47 (footnote omitted).

<sup>16</sup> *Id.* at ¶ 46.

17/24 GHz BSS payloads have no status under first-come, first-served application processing. Accordingly, a future DBS satellite that is positioned near SES-1 or SES-2 would be entitled to interference protection in the 17 GHz band.

Under these circumstances, grant of a waiver is justified here and conforms to Commission precedent. In authorizing the SES-1 and SES-2 spacecraft, the Commission waived certain rules with respect to the satellites' 17/24 GHz BSS payloads in reliance on the fact that no operational authority was being sought or granted in those frequencies. For example, the Commission noted that because SES was not seeking operational authority for the SES-1 17/24 GHz BSS payload at 101° W.L., SES had not provided a four-degree spacing analysis for those frequencies that was tailored to that orbital location.<sup>17</sup> The Commission waived the requirements of Section 25.140, holding that “requiring SES Americom to comply fully with the requirement to file an interference analysis would be unduly burdensome and would not otherwise serve the public interest.”<sup>18</sup> The Commission also found that waiver of the performance bond and milestone requirements that would otherwise apply to the 17/24 GHz BSS payloads was justified because SES was not seeking operational authority in those frequencies and had “no status in the Commission’s first-come, first-served processing framework” for those payloads.<sup>19</sup>

Waiver of the March 15 filing deadline for submitting off-axis antenna information regarding the 17/24 GHz BSS payloads is warranted for the same reasons.

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<sup>17</sup> SES-1 Grant at ¶ 6(d).

<sup>18</sup> *Id.*

<sup>19</sup> SES-1 Grant at ¶ 6(a); SES-2 Grant at ¶ 6(a).

Requiring SES to submit the information now would not serve any public policy objective and would simply place an unnecessary burden on SES.

SES acknowledges that any waiver granted here would be limited to the specific circumstances before the Commission. In particular, SES is aware that any future application in which it seeks to activate either of the satellites' 17/24 GHz BSS payloads would need to provide information responsive to all the applicable rules for those bands. Furthermore, SES recognizes that it bears the risk that any such future request for operating authority could be denied if SES were to fail to satisfy the Commission's requirements without good cause justifying a waiver. In the instant filing, SES is seeking a waiver of the March 15 deadline for submission of the new information required under the 17/24 GHz Second R&O on the basis that it lacks authority to operate the 17/24 GHz payloads on SES-1 and SES-2, and is not seeking a waiver of the information requirements themselves.



## CONCLUSION

For the foregoing reasons, SES seeks any necessary waiver of the March 15, 2012, filing deadline announced in the 17/24 GHz BSS Public Notice with respect to the SES-1 and SES-2 17/24 GHz BSS payloads.

Respectfully submitted,

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