

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Intelsat License LLC

Application to Modify Authorization for
Intelsat 5

File Nos. SAT-MOD-20140829-00097

Call Sign: S2704

RESPONSE OF INTELSAT LICENSE LLC

Intelsat License LLC (“Intelsat”), by its attorneys, responds to the Petition to Deny or Defer of ABS Global, Ltd. (“ABS”) regarding the above-referenced application for permanent authority to operate the Intelsat 5 satellite (call sign S2704) at the 157.0° E.L. orbital location.¹ As the Commission is aware, the Intelsat 5 satellite recently replaced the Intelsat 706 satellite (call sign S2401) at the 157.0° E.L. orbital location.² Intelsat relocated Intelsat 5 to ensure continuity of service to customers previously receiving service from the Intelsat 706 satellite, which is currently being de-orbited. ABS asks the Commission to delay Intelsat’s continued use of C-band frequencies at 157.0° E.L. pending completion of a new coordination agreement.³ As Intelsat argued in its prior response to ABS, the Commission should expeditiously reject this attempt by a non-U.S.-licensed satellite operator to manipulate the FCC’s licensing processes in

¹ Application of Intelsat License LLC to Modify Authorization for Intelsat 5, Call Sign S2704; File No. SAT-MOD-20140829-00097 at 3 (filed Aug. 29, 2014) (“Intelsat 5 Modification Application”).

² Request for Special Temporary Authority to Drift and Operate Intelsat 5, File No. SAT-STA-20140502-00047 (stamp grant Oct. 10, 2014) (“Intelsat STA Grant”).

³ Petition to Deny or Defer of ABS Global, Ltd., File No. SAT-MOD-20140829-00097 (filed Nov. 13, 2014) (“ABS Petition”).

order to gain leverage in ITU coordination negotiations regarding future services on a satellite with lower ITU priority, to the detriment of current Intelsat customers.

By way of background, Intelsat operated the Intelsat 706 satellite at the nominal 157.0° E.L. orbital location from February 2013 to November 2014.⁴ Prior to Intelsat 706, Intelsat 701 operated at the location.⁵ Intelsat 5 recently replaced Intelsat 706 at 157.0° E.L., and is using the same operating parameters as Intelsat 706 to serve the customers previously on that satellite. Intelsat understands that ABS seeks to use its ABS-6 satellite, which just recently began operating at 159.0° E.L., to provide new services from 159.0° E.L. As Intelsat previously explained, Intelsat and ABS are currently engaged in coordination discussions to try to facilitate new operating parameters sought by ABS to provide its planned, but as of yet non-operational, services. Intelsat has, in good faith, engaged in negotiations and responded to all requests for information from ABS.

ABS previously objected to Intelsat's 180-day request for Special Temporary Authority ("STA") to operate Intelsat 5 at 157.0° E.L. pending grant of the instant permanent modification application.⁶ The Commission granted Intelsat's STA request on October 10, 2014.⁷ As previously noted, Intelsat 5 is currently providing service to customers.

⁴ Request for Further Extension of Special Temporary Authority to Drift Intelsat 706 and Request to Begin Operations, File No. SAT-STA-20130206-00017 (stamp grant Feb. 14, 2013). Intelsat 706 was moved to 156.9° W.L. prior to the arrival of Intelsat 5. *See Policy Branch Information; Actions Taken*, Report No. SAT-00402, File No. SAT-STA-20140917-00101 (Sept. 19, 2014) (Public Notice); *Policy Branch Information; Actions Taken*, Report No. SAT-01029, File No. SAT-STA-20140627-00081 (July 18, 2014) (Public Notice).

⁵ *See* Intelsat License LLC, Application to Modify Authorization for Intelsat 706 (S2401), File No. SAT-MOD-20121026-00188, Narrative at 2-3 (stamp grant Aug. 6, 2014) (explaining that Intelsat 706 would replace Intelsat 701 at 157.0° E.L.).

⁶ Comments of ABS Global, Ltd., File Nos. SAT-MOD-20140829-00097 and SAT-STA-20140502-00047 (filed Sept. 19, 2014).

ABS' initial comments—late-filed in opposition to Intelsat's request for special temporary authority and prematurely filed for the instant modification application—failed to disclose the essential fact that Intelsat's (United States) ITU filing at 157.0° E.L. has priority over ABS' (Papua New Guinea) ITU filing at 159.0° E.L. in the relevant C-band frequencies. Now, ABS acknowledges Intelsat's ITU priority but attempts to minimize its impact by treating Intelsat's ITU filing as though it is still at the coordination stage. The ITU regulations ABS cites note that priority cannot be obtained simply by starting the Advance Publication phase or seeking coordination;⁸ however, the notification phase for the C-band frequencies at issue here is already complete, and the frequencies are included in the Master Register. ABS' arguments simply ignore the important distinction between ITU filings seeking placement in the Master Register, and filings that have already been listed in the Master Register.

Any suggestion that Intelsat is required to complete coordination with ABS in order for Intelsat to continue serving existing customers on C-band frequencies is simply wrong. Intelsat's satisfaction of all the required coordination for its C-band operations at the 157.0° E.L. orbital location is evidenced by the fact that the relevant filings have been notified in the ITU Master Register. Pursuant to Article 9 of the ITU's Radio Regulations, it is ABS, with its junior ITU filing, who must seek coordination with Intelsat for ABS' new services.⁹ As noted above, Intelsat has entered into good faith coordination discussions with ABS as required under the ITU's rules. However, the ITU rules do not require Intelsat, with a superior ITU filing, to

⁷ Intelsat STA Grant.

⁸ See ABS Petition at 4 (citing “Nos 9.6 (9.7 to 9.21), 9.27 and Appendix 5 under Article 9 of the ITU Radio Regulations”).

⁹ International Telecommunication Union Radio Regulations, Art. 9.

change its operations to allow higher power operations under a junior ITU filing. Intelsat cannot allow its current customers to receive degraded services simply to accommodate the future plans of ABS, and the ITU's rules do not require such an illogical outcome.¹⁰ As the Commission correctly stated in its grant of Intelsat's STA application, "there is no public interest reason to require Intelsat to cease service to the customers currently served by IS-706," particularly in light of the fact that "operations using Intelsat 5 will continue pursuant to fully coordinated and notified ITU filings."¹¹

Clearly, ABS is attempting improperly to leverage the FCC's licensing process to obtain coordination terms more favorable than the ITU requires. ABS' reference to the prior FCC proceeding involving Intelsat and Yahsat is wholly misplaced—and runs counter to ABS' arguments—because the ITU filing used by Yahsat had ITU priority over the ITU filing used by Intelsat in the bands at issue in that proceeding. The only remotely relevant aspect of the Yahsat proceeding is that Yahsat leveraged the FCC's licensing process to gain favorable terms in coordination agreements with Intelsat—just as ABS is trying to do here.

ABS' suggestion that Intelsat's interference analysis provided pursuant to Section 25.140(a) of the Commission's rules¹² should have accommodated ABS' future plans for small sized earth stations¹³ is simply wrong. The FCC's rules do not require Intelsat to give adjacent non-U.S.-licensed operators with lower ITU priority more interference protection when replacing technically equivalent satellites. Intelsat 5 is providing service continuity at 157.0° E.L. using

¹⁰ *Id.*

¹¹ Intelsat STA Grant, note 1.

¹² 47 C.F.R. § 25.140(a).

¹³ ABS Petition at 6-7.

the same C-band frequencies and power levels as the previously operational Intelsat 706 satellite.¹⁴ Furthermore, ABS' comments regarding the differing coverage areas of Intelsat 706 and Intelsat 5 are wholly irrelevant.¹⁵ Intelsat holds global ITU priority in the C-band 157.0° E.L.; therefore, the size of Intelsat 5's coverage area has no impact on Intelsat's continued priority for the frequencies at issue. Finally, ABS' argument regarding Intelsat's link analysis¹⁶ is another attempt to manipulate the FCC's rules to improve ABS' negotiating position in ITU coordination negotiations. The link budgets provided in the Intelsat 5 application are compliant with the FCC's rules, based on current customer requirements, and consistent with Intelsat's proposal to ABS following the last ITU coordination meeting in May of 2014.¹⁷ Distorting the FCC's rules to favor future services operating under a foreign administration's lower priority ITU filing at the expense of existing services operating under a U.S. higher priority ITU filing—as ABS seeks—unequivocally would harm the public interest and would set an extremely bad precedent for U.S. satellite operators.

Intelsat urges the Commission to disregard the petition filed by ABS and expeditiously grant the pending modification application to ensure Intelsat's continued ability to serve its

¹⁴ The Intelsat 5 satellite, just like the Intelsat 706 satellite, meets the power levels set forth in Section 25.212 for the C-band. *See* Letter from Susan H. Crandall to Marlene H. Dortch, SAT-MOD-20140829-00097 (filed Sept. 25, 2014). Notably, ABS never asked the FCC to restrict the operations of Intelsat 706.

¹⁵ ABS Petition at 2-3.

¹⁶ ABS Petition at 7.

¹⁷ The link analysis provided in the Intelsat 706 application was calculated using an adjacent hypothetical U.S.-licensed satellite. By contrast, the Intelsat 5 application link budget calculations were conducted using the more concrete information about ABS' operations under a junior ITU filing.

customers. The FCC should not permit a satellite operator without any U.S. or ITU rights to misapply the Commission's rules to gain unwarranted leverage in coordination negotiations.

Respectfully submitted,

Wiley Rein LLP

By: /s/ Jennifer D. Hindin

Jennifer D. Hindin
Colleen King
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006
TEL: 202.719.7000
FAX: 202.719.7049

Counsel for Intelsat License LLC

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Certificate of Service

I, Jennifer Hindin, hereby certify that on this 24th day of November 2014, a copy of the foregoing letter is being sent via electronic mail to the following:

Arlene Kahng
General Counsel
O'Hara House
3 Bermudiana Road
Hamilton HM08
Bermuda
Arlene@absatellite.net

/s/ Jennifer Hindin
Jennifer Hindin