



International Bureau

Federal Communications Commission  
Washington, DC 20554

December 21, 2005

SES AMERICOM, Inc.  
Nancy J. Eskenazi  
4 Research Way  
Princeton, NJ 08540

Re: In the Matter of SES AMERICOM, Inc. Petition for Declaratory Ruling To Serve the U.S. Market Using BSS Spectrum from the 105.5° W.L. Orbital Location, File No. SAT-PDR-20020425-00071, Call Sign S2619.

Dear Ms. Eskenazi:

On April 25, 2002, you filed with the Commission, on behalf of SES AMERICOM, Inc., ("SES AMERICOM") the above-captioned Petition for Declaratory Ruling ("Petition"). This Petition requests that the Commission determine that it is in the public interest for SES AMERICOM to offer satellite capacity to provide direct-to-home services to consumers in the United States from its AMC-14 (USAT-S1) space station, planned for operation at the 105.5° W.L. orbital location, with service links in the 12.2-12.7 GHz Direct Broadcast Satellite Service ("DBS") band, and feeder links in the 17.3-17.8 GHz fixed-satellite service ("FSS") band.

Section 25.114(c) of the Commission's rules<sup>1</sup> requires all space station applicants to submit all applicable items of information listed in its subsections. In the *First Space Station Reform Order*,<sup>2</sup> the Commission affirmed the policies embodied in this rule by continuing to require applications to be substantially complete when filed.<sup>3</sup> The Commission also emphasized that non-U.S.-licensed space station operators, such as SES AMERICOM, seeking access to the U.S. market will be required to

<sup>1</sup> 47 C.F.R. § 25.114(c).

<sup>2</sup> Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 ¶ 244 (2003) (*First Space Station Reform Order*); International Bureau to Streamline Satellite and Earth Station Processing, *Public Notice*, Report No. SPB-140, October 28, 1998 (emphasizing the obligation to comply with 47 C.F.R. § 24.114(c) and stating that applications that did not comply would be dismissed). Since the *First Space Station Reform Order* was adopted, the Bureau has strictly enforced its Part 25 rules and has returned over 20 applications as defective. See Echostar Satellite LLC, Application for Authority to Construct, Launch and Operate a Geostationary Satellite in the Fixed Satellite Service Using the Extended Ku-Band Frequencies at the 101° W.L. Orbital Location, *Order on Reconsideration*, DA 04-4056, ¶ 14 (rel. Dec. 27, 2004) (contains a partial listing of dismissed applications).

<sup>3</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10852 ¶ 244 (citing Amendment of the Commission's Space Station Licensing Rules and Policies, *Notice of Proposed Rulemaking*, 17 FCC Rcd at 3875 (para. 84) (2002)).

provide the same information regarding the foreign satellites as U.S. satellite license applicants provide for proposed U.S. satellites.<sup>4</sup> As the Commission noted, these procedures and rules will enable it to establish satellite licensees' operating rights clearly and quickly and, as a result, allow licensees to provide service to the public much sooner than might be possible under the previous licensing procedures.<sup>5</sup> More recently, on January 28, 2004, the International Bureau issued a Public Notice reminding DBS applicants that if a DBS application fails to include any of the information required under Section 25.114 of the Commission's rules, it would return the application without prejudice to refile as being unacceptable for filing.<sup>6</sup> The Bureau also stated that applications filed prior to this Public Notice that do not meet these requirements may be subject to a Commission letter requesting that the applicant supply the required information. Since SES AMERICOM filed its Petition prior to the release of this Public Notice, we are sending this letter requesting the required information, instead of returning the Petition as being unacceptable for filing.

*Deficiencies in the Petition.* Upon examination of the above-referenced Petition, we found that it did not include the following information as required under 47 C.F.R. § 25.114:

- 1) Polarization plan for beacon, telemetry, and telecommand functions (*See* 47 C.F.R. § 25.114(c)(4)(i));
- 2) Identification of which antenna beams are connected or switchable to each TT&C function (*See* 47 C.F.R. § 25.114(c)(4)(iii));
- 3) The relationship between satellite receive antenna gain pattern and gain-to-temperature ratio and saturation flux density for each antenna beam (may be indicated on antenna gain plot) (*See* 47 C.F.R. § 25.114(c)(4)(v));
- 4) The gain of each transponder channel (between output of receiving antenna and input of transmitting antenna) including any adjustable gain step capabilities (*See* 47 C.F.R. § 25.114(c)(4)(vi));
- 5) Predicted receiver and transmitter channel filter response characteristics (*See* 47 C.F.R. § 25.114(c)(4)(vii));
- 6) Physical characteristics of the space station, including weight and dimensions of spacecraft, detailed mass (on ground and in-orbit) and power (beginning and end of life) budgets, and estimated operational lifetime and reliability of the space station and the basis for that estimate (*See* 47 C.F.R. § 25.114(c)(10));

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<sup>4</sup> *Id.*, 18 FCC Rcd at 10872 (¶ 300).

<sup>5</sup> *First Space Station Reform Order*, 18 FCC Rcd at 10765-66 (¶ 4).

<sup>6</sup> *See* International Bureau Clarifies Direct Broadcast Satellite Space Station Application Processing Rules, *Public Notice*, Report No. SPB-198, 19 FCC Rcd 1346 (2004). Two years earlier, the Commission incorporated the DBS service rules into Part 25 of the Commission's rules. *Policies and Rules for the Direct Broadcast Satellite Service, Report and Order*, IB Docket No. 98-21, 17 FCC Rcd 11331 (2002) (*Part 100 R&O*). In that Order, the Commission stated that DBS applicants would be required to provide the information requested by Form 312 and to follow all relevant Part 25 procedures. *Id.*, 17 FCC Rcd at 11350 (¶ 36).

- 7) Dates by which construction will be commenced and completed, launch date, and estimated date of placement into service (*See* 47 C.F.R. § 25.114(c)(12));

*Other Issues Raised by SES AMERICOM's Petition.* We take this opportunity to apprise SES AMERICOM of other concerns we have regarding its compliance with Sections 25.148 of the Commission's rules, should SES AMERICOM choose to amend the Petition. Section 25.148(f) of the Commission's rules requires that "DBS operations must be in accordance with the sharing criteria and technical characteristics contained in Appendices 30 and 30A of the ITU Radio Regulations. Operation of systems using differing technical characteristics may be permitted, with adequate technical showing, and if a request has been made to the ITU to modify the appropriate Plans to include the system's technical parameters." Regarding the latter condition, we note that the U.K. Administration has filed a proposed Region 2 Plan<sup>7</sup> modification with space-station technical characteristics corresponding to those in SES AMERICOM's Petition with the ITU Radiocommunication Bureau ("ITU/BR") as "USAT-S1"<sup>8</sup> on behalf of SES AMERICOM.<sup>9</sup> The Petition, however, does not demonstrate that the space station, AMC-14, could operate in accordance with the sharing criteria and technical characteristics contained in Appendices 30 and 30A.<sup>10</sup> The *ITU Special Section* in which the characteristics of USAT-S1 are published indicates that the proposed system exceeds the threshold change in overall equivalent protection margin ("delta-OEPM")<sup>11</sup> that triggers the agreement-seeking process under the ITU Appendix 30, Annex 1 for several affected satellite networks, including several operational U.S. DBS networks. Therefore, we would appreciate if any amendment would indicate whether operating arrangements have been negotiated with adjacent satellite operators.

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<sup>7</sup> The Region 2 Plans are the Plans for the broadcasting-satellite service in Region 2 in the frequency band 12.2-12.7 GHz and the associated feeder links in the frequency band 17.3-17.8 GHz contained in Appendices 30 and 30A of the ITU Radio Regulations.

<sup>8</sup> "USAT-S1" is the ITU satellite network name for the ITU filing associated with SES AMERICOM's AMC-14 space station.

<sup>9</sup> *See* ITU BR International Frequency Information Circular ("IFIC") No. 2518, dated May 4, 2004, Space Services, Special Sections, AP30-30A/E/296 (*ITU Special Section*).

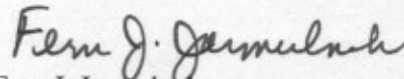
<sup>10</sup> *See* 47 C.F.R. § 25.148(f).

<sup>11</sup> ITU Radio Regulations, Appendix 30, Annex 5, Section 1.11.

<sup>13</sup> 47 C.F.R. § 25.114(c).

Consequently, we will not further consider the Petition until it is amended to supply the information required by 47 C.F.R. § 25.114 and listed above as missing. Please provide the required information by January 20, 2006. Please note that Section 25.114(c) of the Commission's rules<sup>13</sup> requires the information listed in its subsections to be filed on FCC Form 312, Main Form and Schedule S. Failure to respond will subject the Petition to dismissal without prejudice pursuant to Section 25.152(b) of the Commission's rules.<sup>14</sup>

Sincerely,



Fern J. Jarmulnek  
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<sup>14</sup> 47 C.F.R. § 25.152(b).