

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

In the Matter of )  
 )  
Telesat Canada ) File No. SAT-PDR-20161115-00108  
 )  
Petition for Declaratory Ruling to Grant )  
Access to the U.S. Market for Telesat’s )  
NGSO Constellation )  
 )

**TELESAT CANADA’S RESPONSE TO COMMENTS OF HUGHES NETWORK  
SYSTEMS, LLC**

In the above-referenced Petition for Declaratory Ruling (“Petition”), Telesat Canada (“Telesat”) seeks access to the U.S. market for Telesat’s planned low earth orbit (“LEO”), non-geostationary satellite orbit (“NGSO”) satellite system (the “Telesat LEO Constellation” or “LEO Constellation”). Telesat’s Petition is one of several applications and petitions (collectively, the “Applications”) regarding Ku-band and Ka-band NGSO satellite systems that have been accepted for filing by the Commission that are subject to the same comment period.<sup>1</sup>

Telesat’s LEO Constellation will be comprised of over 100 advanced satellites that will deliver high capacity, high speed, low latency data services with a distributed space architecture designed to enhance network security and resiliency and the ability to provide coverage anywhere in the world. The innovative design combines polar and

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<sup>1</sup> See *Public Notice, Petitions Accepted For Filing, Cut-Off Established for Additional NGSO-Like Satellite Petitions or Petitions For Operations in the 12.75-13.25 GHz, 13.85-14.0 GHz, 18.6-18.8 GHz, 19.3-20.2 GHz, and 29.1-29.5 GHz Bands*, DA 17-524, File No. SAT-LOI-20161115-00121 (May 26, 2017) (“*May 2017 Public Notice*”).

inclined orbits, incorporates advanced technologies that will make effective and efficient use Ka-band spectrum to bring needed services to the public, including many presently underserved areas. Innovation, Science and Economic Development Canada (formerly Industry Canada) has authorized Telesat to launch and operate this LEO Constellation, and Telesat has filed the Petition for authority to serve the U.S. market.

Hughes Network Systems, LLC (“Hughes”) submitted comments to the Commission regarding various NGSO petitions and applications in this processing round, including Telesat’s Petition.<sup>2</sup> Telesat hereby responds to Hughes’ Comments. Telesat demonstrates that the Comments provide no basis for delaying a grant of Telesat’s Petition.

## I. DISCUSSION

Hughes asserts that additional information is needed from some or all of the parties in the NGSO processing round to establish their compliance with ITU EPFD limits. Hughes, however, does not identify the information it believes to be required or the parties it believes should provide it. Hughes also ignores the fact that the Commission’s Ka-band rules do not require an EPFD showing and that Telesat has provided all of the EPFD-related information requested by the Commission.<sup>3</sup> Hughes’ assertions are vague and unsubstantiated and provide no basis for delaying favorable

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<sup>2</sup> See Letter from Jennifer A. Manner and Brenna Price, Hughes Network Systems, LLC, to Ms. Marlene Dortch, FCC, regarding Comments on Additional NGSO-Like Satellite Applications or Petitions for Operations in the 12.75-13.25 GHz, 13.85-14.0 GHz, 18.6-18.8 GHz, 19.3-20.2 GHz, and 29.1-29.5 GHz bands, DA 17-524 (June 26, 2017). (Hughes Comments”).

<sup>3</sup> See Letter from Elisabeth Neasmith, Telesat, to Jose Albuquerque, Chief, FCC Satellite Division, regarding response to March 15, 2017 letter requesting additional information regarding Telesat’s Petition for Declaratory Ruling Requesting Access to the U.S. Market for Its Non-Geostationary Orbit Constellation, Call Sign S2976 IBFS File No. SAT-LOI-20161115-00108 (April 14, 2017) at 2-3 and Attachment 1.

action on Telesat's Petition. Hughes also states that it has conducted only an "initial review" of the applications and intends to provide "further detail in the reply comment stage."<sup>4</sup> It was incumbent on Hughes, however, to raise in its Comments any issues it may have had with Telesat's EPFD showing. Responsive pleadings are supposed to be limited to issues that already have been raised.<sup>5</sup> Action on Telesat's Petition and other Applications should not be delayed by injecting new issues after the date for filing comments has passed.

Hughes has had ample time to consider Telesat's EPFD showing. Telesat's Petition has been on file since November of last year, and in April Telesat fully responded to a Commission request for additional information regarding its EPFD analysis.<sup>6</sup> Hughes has no cause for complaint, therefore, with the June 26 deadline it was subject to for raising concerns with Telesat's EPFD showing.

Hughes' further reference to rules that it has requested the Commission adopt in its pending NGSO NPRM<sup>7</sup> have no bearing here. Telesat's Petition is fully compliant with all current Commission requirements and that compliance, not compliance with rules Hughes hopes the Commission will adopt, is all that is required.

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<sup>4</sup> *Hughes Comments* at 2.

<sup>5</sup> The pleading cycle established in the May 2017 Public Notice provides for responses to initial comments, but does not envision replies to those responses. This Telesat response, therefore, marks the end of the pleading cycle with respect to Hughes' Comments.

<sup>6</sup> *See supra* note 3.

<sup>7</sup> *Hughes Comments* at 3; *See Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Notice of Proposed Rulemaking, 31 FCC Rcd 13651 (2016).

Notwithstanding the deficiencies in Hughes' Comments, to allay Hughes' concerns Telesat would have no objection to accepting the following conditions, which would be similar to conditions from the Commission's grant of OneWeb's petition:

- (i) Prior to initiation of service, Telesat must receive a favorable or "qualified favorable" finding in accordance with Resolution 85 (WRC-03) with respect to its compliance with applicable EPFD limits in Article 22 of the ITU Radio Regulations; and
- (ii) Telesat's grant of U.S. market access and any earth station licenses granted in the future would be subject to modification to bring them into conformance with any rules or policies adopted by the Commission in the future.<sup>8</sup>

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<sup>8</sup> Cf. See *WorldVu Satellites Limited, Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System, IBFS File No. SAT-LOI-20160428-00041, Order & Declaratory Ruling, FCC 17-77* (June 23, 2017) at ¶¶24.d and 26. We note what appears to be a typographical error in the OneWeb condition that is specified in ¶24.d; we believe that the reference in that paragraph to "Recommendation 85(WRC-03)" is intended to mean Resolution 85 (WRC-03).

## II. CONCLUSION

Telesat urges the Commission to grant Telesat's Petition, consistent with the action taken by the Commission with respect to OneWeb's petition for access to the U.S. market. Nothing in Hughes' Comments warrants delaying such favorable action.

Respectfully submitted,

TELESAT CANADA

/s/ \_\_\_\_\_  
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July 7, 2017

## CERTIFICATE OF SERVICE

I hereby certify that on this 7<sup>th</sup> day of July, 2017, a copy of the foregoing Response to Comments of Hughes Network Systems, LLC was sent by first-class, United States mail to the following:

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/s/ \_\_\_\_\_  
Brenda Campbell