

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| In the Matter of |) | |
| |) | |
| SES-17 S.à.r.l. |) | File No. SAT-PDR-20190305-00014 |
| |) | |
| Request for U.S. Market Access for |) | Call Sign: S3043 |
| SES-17 |) | |

**PETITION TO DEFER OF ECHOSTAR SATELLITE
OPERATING COMPANY**

Pursuant to 47 C.F.R. § 25.154, EchoStar Satellite Operating Company (“EchoStar”) hereby submits this petition to defer consideration of a portion of SES-17 S.à.r.l.’s (“SES”) Petition for U.S. Market Access for its SES-17 space station.¹ EchoStar requests that the Commission defer consideration of SES’s request for waiver to operate Fixed Satellite Service (“FSS”) downlinks in the 17.3-17.7 GHz band. Instead, the Commission should consider SES’s request in a rulemaking proceeding pursuant to SES’s contemporaneously filed Petition for Rulemaking to amend Parts 2 and 25 of the rules to permit FSS operations in the 17.3-17.7 GHz downlink band.² As an authorized operator of geostationary satellite orbit (“GSO”) networks using the 17.3-17.7 GHz band in both the uplink and downlink directions for Broadcasting-Satellite Service (“BSS”) and Direct Broadcast Satellite (“DBS”) Services, EchoStar is directly impacted by SES’s proposal. EchoStar encourages the Commission to determine that a

¹ See SES, Request for U.S. Market Access for SES-17, File No. SAT-PDR-20190305-00014 (Mar. 5, 2019) (“SES-17 Petition”); see also *Satellite Policy Branch Information: Space Station Applications Accepted for Filing*, Public Notice, Report No. SAT-01380, at 1 (Apr. 5, 2019).

² SES Americom, Inc., Petition for Rulemaking, RM-11839 (Mar. 5, 2019) (“Petition for Rulemaking”). The Petition for Rulemaking was placed on Public Notice on May 1, 2019. *Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed*, Public Notice, Report No. 3126 (May 1, 2019).

rulemaking proceeding, rather than a waiver in the above-referenced application, is the appropriate vehicle to consider changes to the Commission's rules that would permit FSS operations in the 17.3-17.7 GHz band.

In its SES-17 Petition for a Ka-band FSS spacecraft, SES requests a waiver of Section 2.106 and the Commission's Ka-band Plan to provide downlink FSS transmissions to gateway earth stations in the 17.3-17.7 GHz band.³ This band is allocated for downlinks from Broadcasting-Satellite Service ("BSS") space stations; the fixed-satellite service (Earth-to-space) allocation is limited to BSS feeder links.⁴ Although SES proposes to conduct its downlink FSS operations in the band on a protected basis that would "comply with restrictions for the protection of BSS satellites and earth stations operating in this spectrum,"⁵ changes to the operating environment of the 17 GHz band are better reserved for a rulemaking proceeding.

A rulemaking proceeding would provide DBS and BSS operators like EchoStar a better opportunity to review SES's proposal and the impact of allowing FSS downlink operations in the 17.3-17.7 GHz band. A robust record would also assist the Commission in determining whether SES's requested changes to Parts 2 and 25 of the rules to permit FSS downlink transmissions in the 17 GHz would be in the public interest and whether such operations would be possible without causing interference to existing BSS operations. Consequently, the Commission should defer SES's waiver request for FSS downlink operations until DBS and BSS operators have had the opportunity to fully analyze the ramifications of SES's proposal and the Commission can

³ SES proposes to operate in the 17.7-17.8 GHz band plan on a non-interference basis with respect to Fixed Services as well but EchoStar does not comment on that request. Petition at 8 & n.12.

⁴ 47 C.F.R. § 2.106.

⁵ Petition at 7.

determine whether FSS downlink operations can truly coexist in the 17 GHz band through a rulemaking proceeding.

For the foregoing reasons, EchoStar respectfully requests that the Commission defer consideration of SES's request to waive Parts 2 and 25 of the Commission's rules until it has considered SES's concurrently filed Petition for Rulemaking asking the Commission to change the allocation for the 17.3-17.7 GHz band.

Respectfully submitted,

/s/ Jennifer A. Manner
Jennifer A. Manner
Senior Vice President, Regulatory Affairs

May 6, 2019

CERTIFICATE OF SERVICE

I, Theresa Rollins, hereby certify under penalty of perjury that the foregoing Petition to Dismiss or Defer was served on May 6, 2019, by depositing a true copy thereof with the United States Postal Service, first class postage pre-paid, addressed to the following:

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/s/ Theresa Rollins

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