

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
EUTELSAT S.A.)	File No. SAT-PPL-20180302-00018
)	Call Sign S3031
Petition for Declaratory Ruling for U.S. Market)	
Access for EUTELSAT 133WA Space Station)	

REPLY OF SES AMERICOM, INC.

SES Americom, Inc. (“SES”) hereby submits this reply regarding the above-referenced application in which Eutelsat S.A. (“Eutelsat”) is seeking authority for the French-licensed EUTELSAT 133WA satellite to serve the U.S. market in Ku-band frequencies at 132.85° W.L. +/- 0.1 degrees.¹ SES, which operates Ku-band satellites on either side of this position, noted in its comments² that the analysis of adjacent satellite compatibility in the EUTELSAT 133WA Petition was flawed for two reasons: the analysis failed to accurately reflect the reduced spacing between EUTELSAT 133WA’s planned location and stationkeeping and the position of AMC-1, and did not account for the non-routine power levels SES notified for AMC-4. To ensure that critical services being provided over the SES satellites are protected, SES asked the Commission to require the submission of supplemental information regarding the interference risks prior to acting on the EUTELSAT 133WA Petition.

In its response, Eutelsat provides an updated analysis relating to operations adjacent to AMC-1 that takes into consideration both the offset location planned for EUTELSAT 133WA

¹ Eutelsat S.A., Call Sign S3031, File No. SAT-PPL-20180302-00018 (the “EUTELSAT 133WA Petition”).

² Comments of SES Americom, Inc., File No. SAT-PPL-20180302-00018, May 7, 2018 (“SES Comments”).

and the request for an increased east-west stationkeeping tolerance.³ With respect to AMC-4, Eutelsat claims that if required it “can coordinate and/or adjust its operations to accommodate any non-routine earth station operations authorized consistent with the Commission’s rules,”⁴ but challenges whether the notification letter SES filed pursuant to Section 25.140(d)⁵ permits SES to operate at the non-routine levels specified in the letter.⁶

The Commission should dismiss Eutelsat’s arguments regarding the sufficiency of the SES Section 25.140(d) Notification and confirm that Eutelsat must accept any interference resulting from operations of AMC-4 up to the levels included in the notification. For AMC-4 uplinks, the notified level in the 13.75-14.5 GHz frequencies used by both AMC-4 and EUTELSAT 133WA is -42 dBW/Hz. In addition, although not mentioned in the SES Comments, there is a partial overlap of downlink frequencies between AMC-4 and EUTELSAT 133WA, both of which use the 11.45-11.7 GHz extended Ku-band segment. The SES Section 25.140(d) Notification specified a non-routine power level of -19 dBW/Hz for the 11.45-12.2 GHz downlink frequencies.

First, there is no basis for Eutelsat’s argument that the AMC-4 license precludes SES from operating at uplink levels exceeding the -44 dBW/Hz value mentioned in the application SES filed when it sought to position AMC-4 at 130.9° W.L.⁷ In granting the AMC-4

³ Opposition and Response of Eutelsat S.A., File No. SAT-PPL-20180302-00018, May 17, 2018 (the “Eutelsat Response”) at 9-11.

⁴ *Id.* at 17.

⁵ See Letter from Petra A. Vorwig, SES Senior Legal & Regulatory Counsel, to Marlene H. Dortch, Secretary, Federal Communications Commission, File Nos. SAT-MOD-20170518-00073 *et al.*, dated Jan. 10, 2018 (the “SES Section 25.140(d) Notification”).

⁶ Eutelsat Response at 11-17.

⁷ *Id.* at 12, citing *SES Americom, Inc.*, Call Sign S2135, File No. SAT-MOD-20170518-00073 (the “AMC-4 Modification”), Technical Appendix at 4, granted July 31, 2017 (the “AMC-4

Modification, the Commission did not mention the -44 dBW/Hz level or otherwise indicate that operations with AMC-4 would be restricted to a specified power. Instead, the only constraint on operating levels mentioned in the AMC-4 License is the requirement to “comport with the maximum power limits indicated in existing or future coordination agreements at 134.9° W.L.”⁸ Although some satellite grants include a condition specifying a maximum operating level notwithstanding coordination,⁹ no such provision is part of the AMC-4 License.

In short, the AMC-4 License authorizes SES to operate at power levels higher than those specified in Part 25 provided such levels are coordinated with adjacent satellites within six degrees. Submission of the SES Section 25.140(d) Notification superseded the prior maximum operating levels described in the AMC-4 Modification, and operation at or up to the coordinated level of -42 dBW/Hz specified in the notification is fully consistent with the express terms of the AMC-4 License.

Eutelsat’s claim that the validity of the SES Section 25.140(d) Notification is dependent on whether earth stations communicating with AMC-4 are operating at non-routine power levels¹⁰ also must be rejected. SES recognizes that the purpose of Section 25.140(d) is to ensure that satellite operations coordinated at above-routine power levels can continue uninterrupted notwithstanding the arrival of a new adjacent satellite. But the Commission must not interpret the rule in a manner that creates a “chicken and egg dilemma” for satellite operators.

License”). Eutelsat’s argument does not apply to the downlink frequencies, as the notified level for AMC-4 downlinks is lower than the maximum value stated in the AMC-4 Modification.

⁸ AMC-4 License, Attachment to Grant at 2, ¶ 7.

⁹ See, e.g., *Intelsat License LLC*, Call Sign S2972, File No. SAT-LOA-20160915-00089, granted June 8, 2017, Attachment to Grant at 3 (stating that in addition to complying with applicable limits reflected in coordination agreements, the “operations of Intelsat 37e must also comport with the maximum power limits indicated in its application.”).

¹⁰ Eutelsat Response at 12-17.

SES, for example, has taken a conservative approach to implementing the relatively new Section 25.140(d) provisions, given that there is little or no precedent applying the rule and based on SES's desire to avoid situations in which an existing customer service would have to be altered to accommodate a new satellite arrival. In the case of AMC-4, SES was asked by a customer some time ago for flexibility to operate at above-routine power levels. Prior to agreeing to such higher levels, SES first took steps to prepare and submit the SES Section 25.140(d) Notification in order to solidify its operating rights. Having completed the notification step, SES has been in negotiations with the customer regarding the details of implementing higher power levels on the customer's system.

If Eutelsat's interpretation of Section 25.140(d) were accepted, the result would be to create the risk that customer operations at non-routine power levels, once begun, would later have to be dialed back because of a newly arrived adjacent satellite – exactly the type of situation Section 25.140(d) was intended to avoid. Specifically, under Eutelsat's theory, operations at non-routine levels must start before a satellite operator is eligible to file a Section 25.140(d) notification. In this case, SES would have had to wait to notify the above-routine levels sought for AMC-4 until after: 1) the necessary contractual negotiations were completed, 2) the customer requested and received modification of its operating authority to incorporate the higher power levels, 3) all other necessary preparatory steps were completed, and 4) operations at the higher levels had actually commenced. At any point in that sequence prior to filing of the Section 25.140(d) notification, the submission of an application for a new adjacent satellite could

have nullified SES's ability to allow operations at the non-routine levels, as a notification is effective only with respect to later-filed applications and petitions.¹¹

This view of the rule would put both satellite operators and their customers in an untenable position, as neither would be sure until after operations at above-routine power levels were already under way whether the rights for continuing operations at those levels had been effectively secured or whether the submission of an intervening satellite application or petition would require the operations to be limited to routine Section 25.140 levels. Such an outcome would nullify the intended effect of Section 25.140(d) by making it impossible for a satellite operator to negotiate the ability to offer higher power to customers and provide certainty that the customers would not later be forced to cut back their power.

Indeed, this is exactly what is happening with respect to AMC-4. SES is close to finalizing an agreement with its customer for operations at above-routine power levels. But Eutelsat's challenge to the SES Section 25.140(d) Notification raises the question of whether the customer could be required to revert to the previously specified levels if Eutelsat's reading of Section 25.140(d) is accepted by the Commission.

The Commission must reject this self-defeating interpretation of its rule. Instead, consistent with the policy underlying Section 25.140(d) in favor of protecting satellite customers' interests in service continuity, the Commission should confirm that satellite operators can notify non-routine power levels in order to establish regulatory rights to use above-routine power levels prior to the actual commencement of such higher power operations. Under this

¹¹ See 47 C.F.R. § 25.140(d)(3) ("Non-routine transmissions notified pursuant to this paragraph (d) need not be coordinated with operators of authorized co-frequency space stations *that filed their complete applications or petitions after the date of filing of the notification* with the Commission. Such *later applicants and petitioners* must accept any additional interference caused by the notified non-routine transmissions.") (emphasis added).

approach, the SES Section 25.140(d) Notification should be deemed valid, protecting SES's ability to offer above-routine power levels for AMC-4. As noted above, Eutelsat has made clear that it can adjust its operations as needed to accommodate communications with AMC-4 that exceed routine levels, and Eutelsat's acceptance of any grant of the EUTELSAT 133WA Petition would be based on full awareness of the potential interference environment. Under these circumstances, the relative equities and the rationale on which Section 25.140(d) is based both support permitting SES to allow AMC-4 customers to employ non-routine power levels consistent with the terms of the SES Section 25.140(d) Notification and any required earth station authority issued by the Commission.

For the foregoing reasons, any grant of the EUTELSAT 133WA Petition should be conditioned on Eutelsat's obligation to accept interference from operations with AMC-4 at uplink power levels up to -42 dBW/Hz and downlink power levels in the 11.45-11.7 GHz band segment up to -19 dBW/Hz, as specified in the SES Section 25.140(d) Notification.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June, 2018, I caused a true and correct copy of the foregoing "Response of SES Americom, Inc." to be sent by first class mail, postage prepaid, to the following:

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