

Before the  
**Federal Communications Commission**  
Washington, DC 20554

In the Matter of Application of  
  
Eutelsat S.A.  
  
Petition for Declaratory Ruling for  
EUTELSAT 133WA to Access the U.S.  
Market and to be Added to the Permitted  
Space Station List at the Nominal  
133° W.L. Orbital Location

File No. SAT-PPL-20180302-00018

Call Sign: S3031

**REPLY OF INTELSAT LICENSE LLC**

Intelsat License LLC (“Intelsat”), by its attorneys, respectfully submits this Reply to the Opposition and Response<sup>1</sup> of Eutelsat S.A. (“Eutelsat”) filed in connection with Eutelsat’s request for EUTELSAT 33C (call sign S3031, since renamed and referred to herein as “EUTELSAT 133WA”) to access the U.S. market and be added to the Permitted Space Station List at the nominal 133° W.L. orbital location (the “Petition”).<sup>2</sup> Eutelsat has failed to show cause for waiver of the Federal Communications Commission’s (“FCC” or “Commission”) geostationary satellite orbit (“GSO”) queue procedures,<sup>3</sup> grant of which would undermine important policy considerations and harm the public interest. Intelsat accordingly requests the Commission deny Eutelsat’s Petition.

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<sup>1</sup> Opposition and Response of Eutelsat S.A., Call Sign S3031, File No. SAT-PPL-20180302-00018 (filed May 17, 2018) (“Eutelsat Opposition and Response”).

<sup>2</sup> Eutelsat S.A., Petition for Declaratory Ruling for EUTELSAT 133WA to Access the U.S. Market and to be Added to the Permitted Space Station List at the Nominal 133° W.L. Orbital Location, Call Sign S3031, File No. SAT-PPL-20180302-00018 (filed Mar. 2, 2018) (“Eutelsat Petition”). Eutelsat seeks to provide service in the United States at 133° W.L. using EUTELSAT 133WA—a French-licensed, in-orbit, Ku-band satellite—beginning mid-2018, and ending prior to the start of service by Intelsat’s Galaxy 15R (Call Sign S3015).

<sup>3</sup> *Id.*, at 9-10.

Developments since Intelsat filed its Petition to Deny<sup>4</sup> do not change the public interest threats posed by Eutelsat’s Petition. On May 10, 2018, the FCC granted Intelsat’s application to launch and operate a C-band replacement satellite with new Ku- and Ka-band frequencies, to be known as Galaxy 15R, at the 133° W.L. orbital location.<sup>5</sup> Intelsat filed its Galaxy 15R application well in advance of Eutelsat’s Petition and thus had first-come, first-served licensing queue status for use of Ku- and Ka-band frequencies at 133° W.L. Eutelsat erroneously concludes that the Galaxy 15R license grant “essentially renders Intelsat’s concerns moot.”<sup>6</sup> In fact, the concerns initially raised by Intelsat continue to exist.

As Intelsat explained in its Petition to Deny, granting Eutelsat’s Petition would undermine confidence in the agency’s satellite authorization rules by setting precedent that could compel the FCC to continue reviewing second-in-time, third-in-time, and even more later-filed applications provided that the applicants claim their satellite will arrive in-orbit before the preceding applicant(s)’ or licensee(s)’ satellite.<sup>7</sup> Grant would also signal to foreign operators that they can obtain U.S. market access notwithstanding any first-in-time U.S. satellite applications or licenses. Eutelsat does not deny these risks in its Opposition and Response. Grant of Eutelsat’s application could also harm U.S. consumers that may lose their service upon discontinuation of Eutelsat’s interim service. In addition, it could impair Intelsat’s business case for the orbital location. Grant of Intelsat’s Galaxy 15R application does not resolve these concerns.

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<sup>4</sup> Petition to Deny of Intelsat License LLC, File No. SAT-PPL-20180302-00018, Call Sign S3031 (filed May 7, 2018) (“Intelsat Petition to Deny”).

<sup>5</sup> *Satellite Policy Branch Information; Actions Taken*, Public Notice, Report No. SAT-01314, DA No. 18-483, SAT-LOA-20170524-00078, SAT-AMD-20170524-00078 (May 11, 2018).

<sup>6</sup> *Eutelsat Opposition and Response*, at 2.

<sup>7</sup> *Intelsat Petition to Deny*, at 3-4.

The FCC’s decision to dismiss Eutelsat’s related petition to provide longer-term service to the U.S. market from 133° W.L. using EUTELSAT 133WB, a French-licensed Ku/Ka-band satellite to be deployed in 2021,<sup>8</sup> similarly does not address Intelsat’s concerns. Allowing Eutelsat to serve the U.S. market on an interim basis from 133° W.L., even without clear plans to deploy a follow-on satellite, would still undercut the agency’s first-come, first-served licensing procedures and consumers may be harmed by the subsequent loss of service if Eutelsat is forced to discontinue operations.

Eutelsat’s claim that interim access to the nominal 133° W.L. orbital location is consistent with “[d]ecades of consistent Commission decisions” is unconvincing.<sup>9</sup> In support of its claim, Eutelsat cites the FCC’s 1999 and 2001 decisions to permit PanAmSat Corporation and Columbia Communications Corporation, respectively, to provide satellite service on an interim basis pending the arrival of a satellite by another party with rights to the orbital location.<sup>10</sup> Yet both examples predate adoption of the FCC’s first-come, first-served licensing procedures for GSO systems in 2003,<sup>11</sup> and are thus entirely inappropriate comparisons.

Eutelsat’s reliance on the agency’s 2010 *Star One, S.A.* decision is also misplaced.<sup>12</sup> In *Star One*, the petitioner had already been granted authority to provide Fixed-Satellite Service in

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<sup>8</sup> See Letter from Jose P. Albuquerque, Chief, Satellite Division, FCC, to Carlos Nalda, LMI Advisors, DA 18-531 (May 22, 2018) (finding that Eutelsat’s petition for market access for EUTELSAT 133WB is mutually exclusive with Intelsat’s Galaxy 15R (Call Sign S3015) application).

<sup>9</sup> *Eutelsat Opposition and Response*, at 7.

<sup>10</sup> See *id.*, at 6 (citing *PanAmSat Corporation Request for Special Temporary Authority to Operate a Space Station at 60° W.L.*, Order and Authorization, 15 FCC Rcd 21802 (1999); *Application of Columbia Communications Corporation for Modification of Authorization to Permit Operation of Ku-band Satellite Capacity on the Columbia 515 Satellite Located at 37.7G West Longitude*, Memorandum Opinion and Order, 16 FCC Rcd 12480 (2001)).

<sup>11</sup> See *Amendment of the Commission’s Space Station Licensing Rules and Policies*, First Report and Order, 18 FCC RCD 10760 (2003).

<sup>12</sup> See *Eutelsat Opposition and Response*, at 7 (citing *In the Matter of Star One, S.A.*, Order, 25 FCC Rcd 14338 (2010)).

the specified location, and there were no other U.S. licensees with FCC authority to operate in that location.<sup>13</sup> The Commission even noted that “no comments were filed in response to [the petitioner’s] application,” indicating that no other party had an interest, or priority positioning, in the location.<sup>14</sup> In the present case, Intelsat has already been granted authority to launch and operate a satellite using C-, Ku-, and Ka-band frequencies from the 133° W.L. orbital location. Unlike Star One, where there was no potential harm to a third party, here Intelsat’s business case for the 133° W.L. orbital location would be impaired if Eutelsat is allowed to provide Fixed-Satellite Service in that location, and build a U.S. customer base.

The Commission should only permit Eutelsat to access the U.S. market from 133° W.L. upon consent by Intelsat, which is licensed to operate from that orbital location using C-, Ku-, and Ka-band frequencies. This is consistent with prior precedent, such as Intelsat’s request to operate on an interim basis at the 76.2° W.L. orbital location to help restore communications in Puerto Rico following Hurricane Maria.<sup>15</sup> Intelsat sought approval from DIRECTV Enterprises, LLC, which held a license for an as-yet-unbuilt satellite to operate in Ku-band frequencies at that location,<sup>16</sup> prior to filing its request with the Commission. Eutelsat should similarly seek approval from Intelsat to operate on an interim basis from 133° W.L. as such an agreement could alleviate Intelsat’s concerns and offer a solution that best serves the public interest. Absent such approval from Intelsat, Eutelsat’s application for EUTELSAT 133WA should not be granted.

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<sup>13</sup> See *id.*, ¶ 4.

<sup>14</sup> *Id.*, ¶ 5.

<sup>15</sup> See *Intelsat License LLC’s Request for Special Temporary Authority to Drift and Operate Intelsat 16 at 76.2° W.L.*, Call Sign S2750, File No. SAT-STA-20171016-00139 (filed Oct. 16, 2017).

<sup>16</sup> See *Satellite Policy Branch Information; Actions Taken*, Public Notice, Report No. SAT-01311, DA No. 18-402, SAT-LOA-20170524-00078, SAT-AMD-20170524-00078 (Apr. 20, 2018).

For the reasons set forth above, Intelsat respectfully requests the Commission deny Eutelsat's Petition.

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Respectfully submitted,

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Dated: June 4, 2018

**CERTIFICATE OF SERVICE**

I, Rheatte Brighthaupt, hereby certify that on this 4th day of June 2018, a copy of the foregoing Petition to Deny of Intelsat License LLC is being sent via first class, U.S. Mail, postage paid, to the following:

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