



SatCom Law LLC
1317 F St. NW, Suite 400
Washington, D.C. 20004
T 202.599.0975
www.satcomlaw.com

March 22, 2017

FILED ELECTRONICALLY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Intelsat License LLC Notifications of Non-Routine Transmission Levels
Galaxy 16, Call Sign S2687, File No. SAT-RPL-20051118-00233; and
Galaxy 28, Call Sign S2160, File No. SAT-MOD-20050422-00089**

Dear Ms. Dortch:

SES Americom, Inc. ("SES"), by its attorney, hereby objects to the above-referenced notifications that Intelsat License LLC ("Intelsat") submitted pursuant to Section 25.140(d) of the Commission's rules, 47 C.F.R. § 25.140(d).¹ Specifically, SES notes that Intelsat's statements in the Galaxy 16 Letter and the Galaxy 28 Letter that Intelsat "has coordinated" the non-routine transmission levels identified in the letters are incorrect with respect to neighboring satellites operated by SES.

Section 25.140(d) was adopted as part of the Commission's most recent decision in its review of the Part 25 rules for space station and earth station operations.² The Part 25 Order reaffirmed long-standing policy in favor of default operating levels for satellites in a two-degree spacing environment, but updated the policy in important respects to promote continuity of service. These included changes to address a situation in which a new entrant commences operations adjacent to an existing operator that is providing non-two-degree compliant services consistent with previous coordination arrangements.³

SES and other companies supported Commission action that would "permit a space station operator that has coordinated the use of parameters in excess of those allowed under the two-degree spacing policy with existing operators to continue to provide service at the coordinated levels upon the arrival of a later-authorized, two-degree compliant space station."⁴ To ensure

¹ See Letter of Susan H. Crandall to Ms. Marlene H. Dortch, Call Sign S2687, File No. SAT-RPL-20051118-00233, dated Sept. 19, 2016 ("Galaxy 16 Letter"); Letter of Susan H. Crandall to Ms. Marlene H. Dortch, Call Sign S2160, File No. SAT-MOD-20050422-00089, dated Sept. 19, 2016 ("Galaxy 28 Letter").

² *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, FCC 15-167, 30 FCC Rcd 14713 (2015) (the "Part 25 Order").

³ *Id.* at 14751, ¶ 105.

⁴ *Id.* at 14752, ¶ 106 (footnote omitted).

that any prospective new entrant was on notice regarding non-routine transmissions relevant to its planned operations, SES and other parties urged the Commission to require “that the existing operator notify the Commission of the details of its non-routine operations in a manner to enable subsequent operators to assess the potential interference environment.”⁵

The Commission “substantially adopt[ed]” these proposals “to allow continued transmissions above routine levels upon notice to the Commission, even if such levels are not coordinated with later applicants and petitioners for market access.”⁶ The new policy is codified in Section 25.140(d), which specifies the information that should be supplied to inform the Commission of non-routine power levels and provides that such notifications shall be placed on public notice pursuant to Section 25.151(a)(11).⁷

Although Section 25.140(d) is not explicit regarding the levels that can be included in a notification, SES has assumed based on the discussion in the Part 25 Order that an operator would notify only the most constraining levels specified by its existing coordination agreements with neighboring satellites, as those levels reflect the practical limit on the notifying entity’s transmissions. For example, an operator with only one two-degree neighbor must comply with the terms of its coordination agreement with that neighbor, regardless of whether the levels coordinated with satellites at greater spacing are more permissive. If instead of notifying these two-degree levels, an operator instead notified the higher transmission levels specified in its agreement with a six-degree neighbor, the notification would create a misleading picture of the interference environment for a prospective new entrant.

SES’s interpretation is consistent with the underlying purpose of Section 25.140(d). As discussed above, the rule’s requirements were intended to further two goals: (1) promoting service continuity by allowing a notifying operator to maintain non-routine transmission levels allowed under existing coordination agreements; and (2) providing accurate information regarding current operating levels to a prospective new entrant.⁸ Both of these objectives will be achieved if operators are permitted to notify only the most constraining transmission levels. In contrast, sanctioning the notification of higher, more permissive levels is not necessary to ensure service continuity and would convey incorrect information to new entrants about the transmission levels actually in use.

The Galaxy 16 Letter and the Galaxy 28 Letter suggest that Intelsat takes a different view of the requirements of Section 25.140(d), because each contains transmission levels that exceed those in current coordination agreements with adjacent SES satellites:

- Galaxy 16 at 99° W.L. is two degrees away from SES-1 at 101° W.L. Intelsat notified a Ku-band uplink power density level for Galaxy 16 of -47 dBW/Hz. SES and Intelsat have discussed a draft coordination agreement that would permit this level for Galaxy 16 and SES-1, but Intelsat has not signed the agreement.
- Galaxy 28 at 89° W.L. is two degrees away from SES-2 at 87° W.L. Intelsat notified a C-band uplink power density level for Galaxy 28 of -32 dBW/Hz. That value exceeds the

⁵ *Id.*, ¶ 107 (footnote omitted).

⁶ *Id.*, ¶ 108.

⁷ 47 C.F.R. § 25.140(d).

⁸ Part 25 Order, 30 FCC Rcd at 14752-53, ¶ 108.

level specified in the applicable SES-Intelsat coordination agreement by 1 dBW/Hz. SES is ready to consider revisions to any coordination agreements at Intelsat's request and to execute them based on mutually agreeable levels.

Because the notified level in the Galaxy 28 Letter exceeds the values specified in existing coordination agreements with SES, SES requests that the Commission dismiss this notification. Furthermore, Intelsat's attempt to notify a level for Galaxy 16 that has not been confirmed in a signed coordination agreement paints an inaccurate picture of the current operating environment and creates an incentive for other parties to simply notify levels that have not been fully coordinated. Therefore the Galaxy 16 Letter should be dismissed as well. As discussed above, accepting the letters would foster inaccurate information about permissible operating levels at these locations, undermining the Commission's policy objectives.

SES also suggests that the Commission issue a public notice to clarify the terms of Section 25.140(d) and provide uniform guidance to operators. In particular, the public notice should address the levels that may permissibly be notified pursuant to Section 25.140(d) and the preferred format of the information on non-routine levels that should be included in any notification.

Please contact the undersigned if you have any questions.

Respectfully submitted,

/s/ Karis A. Hastings

Karis A. Hastings
Counsel for SES Americom, Inc.
karis@satcomlaw.com

cc: Jose Albuquerque, IB Satellite Division
Stephen Duall, IB Satellite Division
Kathyrn Medley, IB Satellite Division
Susan Crandall, Counsel for Intelsat