

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

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Federal Communication Commission
Bureau/Office

In the Matter of Application of

SES AMERICOM, INC.

For Special Temporary Authority to Operate The
AMC-15 Satellite at 113° W.L. and 117° W.L.

File No. SAT-STA-20041012-00198

In the Matter of

ECHOSTAR SATELLITE L.L.C.

Request For Special Temporary Authority to
Operate Its Ka-band Earth Station
With the AMC-15 Satellite at 117° W.L. and
113° W.L.

File No. SES-STA-20041019-01564
Call Sign E030038

OPPOSITION AND REPLY COMMENTS OF ECHOSTAR SATELLITE L.L.C.

EchoStar Satellite L.L.C. ("EchoStar") hereby (1) opposes the petition to deny filed by the National Rural Telecommunications Cooperative ("NRTC"),¹ and (2) replies to the comments filed by Telesat Canada ("Telesat"),² with respect to the above referenced applications

¹ Petition to Deny By the National Rural Telecommunications Cooperative, filed in Application of SES Americom, Inc. For Special Temporary Authority to Operate the AMC-15 Satellite at 113° W.L. and 117° W.L., SAT-STA-20041012-00198 (filed Nov. 22, 2004), and in EchoStar Satellite L.L.C., Request for Special Temporary Authority to Operate Its Ka-band Earth Station With the AMC-15 Satellite at the 117 W.L. and 113 W.L. Orbital Locations, SES-STA-20041019-01564 (filed Nov. 22, 2004).

² Comments of Telesat Canada, filed in Application of SES Americom, Inc. For Special Temporary Authority to Operate the AMC-15 Satellite at 113° W.L. and 117° W.L., SAT-STA-20041012-00198 (filed Nov. 22, 2004).

for special temporary authority ("STA") to operate the AMC-15 satellite launched by SES Americom, Inc. ("SES") at the 113° W.L. and 117° W.L. orbital locations successively. As the customer of SES, and the applicant in the earth station proceeding, EchoStar is directly interested in, and has standing to respond to, these pleadings.

NRTC's objection is totally misdirected for a simple reason: the proposed operation will not achieve what NRTC fears. The purpose of the proposal before the Commission is not to preserve or promote any rights of EchoStar to any of these slots or to satisfy any domestic license milestones. Therefore, the proposal will not, and cannot, help EchoStar "warehouse" any spectrum. Rather, one effect of the proposal (among other public benefits) will be to protect and preserve the U.S. rights to the Ka-band spectrum at these orbital locations and thus benefit indirectly not only EchoStar but any other potential U.S. licensee for these slots. The status of EchoStar's applications and licenses and of its diligence under its domestic license milestones will be judged on its own merits at the appropriate juncture. These matters have no place in this proceeding. As to Telesat, which does *not* oppose the requests, EchoStar understands that SES will have to coordinate the proposed operation with all operational Canadian Ka- and Ku-band satellites in the vicinity of the slots in question.

Time is of the essence, as the AMC-15 satellite has completed in-orbit testing at 136° W.L. and is ready to put these slots to productive use. EchoStar therefore respectfully requests expeditious grant of SES's and EchoStar's applications.

I. OPPOSITION TO NRTC'S PETITION TO DENY

NRTC appears to have confused the International Telecommunication Union ("ITU") regulations on bringing-into-use and the Commission's policies and rules for ensuring timely deployment of orbital spectrum resources. The ITU bringing-into-use deadline is completely

independent of the Commission's rules that require a satellite licensee to meet various implementation milestones for the timely deployment of a satellite to the licensed location.

To be clear, whether or not the STAs are granted, EchoStar would still be required by the Commission's rules³ and license conditions to submit a binding satellite construction contract for the 123°/117° W.L. license by December 8, 2004 and to eventually place a satellite in orbit by December 8, 2008.⁴ Similarly, for the 113° W.L. license, EchoStar will still have to file a binding satellite construction contract by October 8, 2005 and to put a satellite in orbit by October 8, 2009.⁵ NRTC's allegation that EchoStar is somehow "warehousing" spectrum is therefore baseless. Indeed, EchoStar was the first operator to deploy a U.S.-licensed Ka-band payload into orbit,⁶ and SES is the only other operator to date to have even launched a U.S.-licensed Ka-band payload. No other U.S.-licensed operator can claim to have done the same. For NRTC to accuse one of only two U.S.-licensed operators that have operational Ka-band satellites in orbit of attempting to "warehouse" Ka-band spectrum is simply absurd.⁷

Moreover, grant of the STAs is in the public interest because, if anything, the operation of AMC-15 at 113° W.L. and 117° W.L. will have the effect of preserving the ITU date priority of the U.S. Ka-band satellite network filing at each of those locations to the benefit of all

³ See 47 C.F.R. §§ 25.164(a), 25.165.

⁴ See License, Call Sign S2490, SAT-LOA-20030827-00177 (granted Dec. 8, 2003).

⁵ See License, Call Sign S2636, SAT-LOA-20040803-00154 (granted Oct. 8, 2004).

⁶ EchoStar deployed EchoStar 9 -- a hybrid Ka-/Ku-band satellite -- at 121° W.L. in August 2003.

⁷ In this regard, EchoStar notes that most other Ka-band licensees have failed, while EchoStar remains active in promoting the United States' Ka-band interests. Moreover, NRTC's attacks on EchoStar's character at footnote 14 of its petition to deny are both unfounded and extraneous to this proceeding.

potential U.S. licensees. In the event that EchoStar loses (or fails to obtain) Ka-band licenses at either of these locations in the future, other applicants will be able to take advantage of the effect, if any, of AMC-15's operations at these locations for the purposes of the ITU bringing-into-use deadline.⁸

II. REPLY TO COMMENTS OF TELESAT CANADA

EchoStar acknowledges that SES must coordinate the operations of AMC-15 at 113° W.L. and 117° W.L. with Telesat's Canadian-licensed and operational satellites that are within two degrees of those locations. Telesat has an operational satellite, Anik F2, at 111.1° W.L. Accordingly, EchoStar and SES will coordinate with the Canadian administration and Telesat regarding the operation of the Ka-band and limited Ku-band TT&C frequencies of AMC-15 at the adjacent 113° W.L. location. At 118.7° W.L., Telesat Canada has an operational Ku-band satellite, Anik E2, but we understand that there is no overlap between the frequencies used by that satellite and the TT&C frequencies used by AMC-15. There is thus no need to coordinate the use of Ku-band frequencies with Telesat. However, Telesat does not yet have an operational Ka-band satellite at 118.7° W.L. Anik F3 is due to be launched into that location in mid-2006, long after the expiration of the instant STA. Therefore, there is no need to coordinate the proposed Ka-band operations of AMC-15 at 117° W.L. with Telesat. In the event that Telesat places a duly licensed and operational Ka-band satellite at 118.7° W.L. during the period in

⁸ Interestingly, NRTC did not oppose a similar arrangement proposed by WildBlue -- a Ka-band licensee in which NRTC has a \$29 million stake -- and Intelsat to operate Intelsat's IA-8 satellite at WildBlue's licensed slot at 109.2° W.L. for a limited time. See SAT-STA-20040914-00176, SAT-STA-2004-0915-00179. While WildBlue and Intelsat withdrew their applications after the time for filing petitions to deny had passed, NRTC's decision to oppose the proposed arrangement here appears to be motivated solely by a desire to protect its investment in WildBlue from potential competition (assuming WildBlue actually deploys a Ka-band satellite and begins offering service).

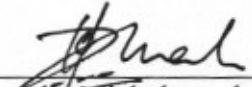
which AMC-15 will be at 117° W.L., EchoStar of course understands that SES would need to coordinate the operations of AMC-15 with that satellite.

III. CONCLUSION

For the reasons above, NRTC's petition to deny should be dismissed and the STA should be granted subject to international coordination with Telesat's Anik F2 at 111.1° W.L.

Respectfully submitted,

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December 1, 2004

DECLARATION OF DAVID BAIR

I, David Bair, declare under penalty of perjury under the laws of the United States of America that I have personal knowledge of the assertions of fact contained in the foregoing "Opposition and Reply Comments of EchoStar Satellite L.L.C.," filed in SAT-STA-20041012-00198 and SES-STA-20041019-01564, and that they are true and correct to the best of my knowledge, information and belief.

Executed on 11/30/2004

A handwritten signature in black ink, appearing to be 'David Bair', written over a horizontal line.

David Bair
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CERTIFICATE OF SERVICE

I, Chung Hsiang Mah, an attorney with the law firm of Steptoe & Johnson LLP, hereby certify that on this 1st day of December, 2004, served a true copy of the foregoing "Opposition and Reply Comments of EchoStar Satellite L.L.C.," and accompanying Declaration of David Bair, by hand and electronic mail upon the following:

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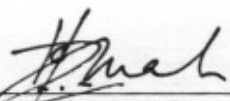
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