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

In the Matter of	)	
Intelsat License LLC	)	
Application to Modify Authorization to Relocate Galaxy 26 to 50.0° E.L.	)	File Nos. SAT-MOD-20110420-00073 SAT-STA-20110314-00053 SAT-STA-20110727-00137
Request for Special Temporary Authority for Galaxy 26	)	Call Sign: S2469

RESPONSE TO SURREPLY

Al Yah Satellite Communications Company PrJSC ("Yahsat") responds to the Surreply filed in this proceeding on August 3, 2011 by Intelsat License LLC ("Intelsat"). In short, the technical analysis provided by Intelsat is overly narrow and simply does not reflect the scope of operations of Yahsat-1A that would appropriately be addressed in a coordination arrangement. At the same time, Intelsat fails to respond to the legal, technical, or policy analysis presented in Yahsat's Reply Comments—even though its pleading is styled as a surreply. Moreover, while Yahsat remains committed to continuing its ongoing coordination negotiations with Intelsat with a view toward the parties reaching a mutually acceptable agreement, the process has come to a halt since Intelsat secured its initial STA in this proceeding. Accordingly, the Commission should not grant Intelsat's application to operate Galaxy 26 at 50.0° E.L. on a permanent basis.

As an initial matter, Intelsat provides no "good cause" for submitting technical information now, outside of the established pleading cycle and without making a conforming amendment to its application.[1] Intelsat claims that it is submitting its Surreply in order to

[1] *See* 47 C.F.R. § 25.154 (providing *only* for the filing of petitions to deny, oppositions, and replies).

"provide an interference analysis *requested* by Yahsat . . . ."[2] What Intelsat does not acknowledge is that Commission rules *require* Intelsat to submit a fulsome interference analysis (as part of its initial application) demonstrating that its proposed operations at 50.0° E.L. would be compatible with those of Yahsat-1A at 52.5° E.L.[3] Notably, Intelsat does not dispute the applicability of this requirement, and does not attempt to distinguish this case from others in which the Commission declined to grant a license to applicants that failed to make that showing.[4] In any event, the incomplete nature of Intelsat's initial application suggests the need for a corrective amendment, and not an additional pleading—particularly since the technical information submitted with the Surreply appears inconsistent with what Intelsat included in the application itself.

Even if Intelsat's Surreply were procedurally proper, the analysis presented therein would remain substantively incomplete. More specifically, Intelsat's analysis suffers from three critical flaws:

First, Intelsat's analysis is incomplete, and does not provide all of the information required by Section 25.114(d)(13) of the Commission's Rules, or establish that Intelsat's operations would be consistent with Appendix 30 of the ITU's Radio Regulations.[5] In particular, Intelsat's application does not provide a "sufficient technical showing that the proposed system could operate satisfactorily if all assignments in the BSS and feeder link

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2 Surreply at 1 (emphasis added).

3 *See* 47 C.F.R. § 25.114(d)(13).

4 *See, e.g., Morning Star Satellite Company, L.L.C.*, 16 FCC Rcd 11550, at ¶ 17 n.40 (2001) (request to use Region 1 BSS spectrum for FSS purposes requires submission of relevant information with respect to the ITU's BSS Plans).

5 47 C.F.R. § 25.114(d)(13). That rule specifies that where the technical characteristics of a proposed system differ from those specified in the Appendix 30 BSS Plans, the applicant must provide: (i) the information requested in Appendix 4 of the ITU's Radio Regulations; (ii) a sufficient technical showing that the proposed system could operate satisfactorily if all assignments in the BSS and feeder link Plans were implemented; and (iii) analyses of the proposed system with respect to the limits in Annex 1 to Appendices 30.

Plans were implemented."[6] Intelsat also fails to provide any analysis demonstrating that Galaxy 26 would comply with the power-flux density limits set forth in Annex 1 to Appendix 30/30A of the ITU Radio Regulations, as clearly required by Section 25.114. Therefore, it is not clear how Intelsat can comply with those levels and continue to provide the service that it intends to provide.

Second, Intelsat's analysis is limited in scope, and premised on assumptions that the manner in which Yahsat will operate its system going forward will be very limited. For example, the analysis does not examine all cases of potential beam overlap between Galaxy 26 and Yahsat-1A, and evaluates interference potential into only a single carrier type. Intelsat also does not examine the full scope of modes (*i.e.*, single-carrier, multi-carrier, different modulation schemes, etc.) in which Yahsat-1A can be expected to operate. Thus, Intelsat does not address the scope of operations of Yahsat-1A that would appropriately be covered in a coordination arrangement. The limited scope of Intelsat's analysis is curious, as Yahsat has indicated that the manner in which its system operates will vary, and has provided Intelsat with specific information about the actual technical parameters within which Yahsat-1A will operate. In any event, Intelsat's analysis of a single, hypothetical mode of operation does not speak to the potential for Galaxy 26 to cause interference into the operations of Yahsat-1A on the whole.

Third, the operational parameters reflected in Intelsat's Surreply are inconsistent with those set forth in its application, and inconsistent with those that have been discussed at different points in time with Yahsat. In fact, over the course of this case, Intelsat has proposed to operate at a variety of different parameters. The Engineering Statement included in Intelsat's modification application assumes a downlink EIRP density level of -26 dBW/Hz at beam peak, and states that downlink EIRP density will not exceed -24.3 dBW/Hz.

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6 *Id.*

In contrast, the Surreply states that the downlink EIRP density will be -33 dBW/Hz. In the brief coordination discussions held by phone between Yahsat and Intelsat, Intelsat suggested that Galaxy 26 would operate at yet another EIRP density level. As such, it is not entirely clear at what levels Intelsat is committed to operate. For this reason, Intelsat's failure to file a proper amendment to its application is especially troubling.

In addition to its submission of a flawed technical analysis, Intelsat uses its Surreply as an opportunity to suggest once again that the Commission could grant its application before coordination is completed. As noted in Yahsat's Reply Comments, in situations such as this where the proposed operations appear incompatible with pre-existing systems operating in accordance with ITU Rules and Regulations, longstanding Commission precedent in analogous situations provides that such negotiations be concluded, and an appropriate agreement reached, *before* the Commission grants any long-term authority allowing Intelsat to provide service over Galaxy 26 at 50.0° E.L.[7] Intelsat makes no attempt to distinguish this precedent in either of its responsive pleadings to date.[8] While Intelsat does assert that completion of coordination should not be an "*absolute* requirement to grant because such requirement would give excessive power to the party from which coordination has to be obtained,"[9] this statement implicitly concedes that completion of coordination *should* be a requirement in certain cases—particularly where the operator that would be affected by an applicant's proposed operations is ready and willing to negotiate. Yahsat

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7 *See Loral Orion Services*, 14 FCC Rcd 17665 (1999) (precluding commercial operations pending completion of coordination with adjacent operators).

8 In fact, Intelsat ignores *Loral Orion Services* in its entirety. Instead, Intelsat relies solely on *Intelsat North America, LLC*, Order, 20 FCC Rcd 11833 (2005) for the proposition that the Commission *can* grant permanent authority before the completion of coordination. That case is easily distinguished, though, as in that case: (i) there was no suggestion that Intelsat's operations would be incompatible with existing systems; (ii) the underlying application was unopposed; (iii) Intelsat's initial application had contained a fulsome interference analysis; and (iv) coordination was largely complete and there were no indications of coordination difficulties.

9 Surreply at 2.

remains committed to continuing its ongoing coordination negotiations with Intelsat with a view toward the parties reaching a mutually acceptable agreement.[10]

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Yahsat remains committed to continuing its ongoing coordination negotiations with Intelsat with a view toward the parties reaching a mutually acceptable agreement. However, for the reasons set forth above and in Yahsat's prior pleadings, the Commission should not grant Intelsat's application to operate Galaxy 26 at 50.0° E.L. on a permanent basis. Intelsat has not shown that the proposed operations would protect adjacent, primary users (including Yahsat), and has not completed coordination with all such users.

Respectfully submitted,

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[10] If anything, *Intelsat* has frustrated recent negotiations. The last conference call between the parties was held in mid-June of this year—around the time that Intelsat secured its initial STA in this proceeding. Tellingly, while Intelsat claims that it "continues to be involved in discussions with Yahsat regarding the transmission parameters of the U.S. government end-users served by the Galaxy 26 satellite at 50.0° E.L. that *are compatible* with current and future operations of the Yahsat-1A satellite at 52.5° E.L.", Surreply at 1-2 (emphasis added), Intelsat offers no assurance that it is committed to addressing the *incompatible* operations specified in Intelsat's pending application.

CERTIFICATE OF SERVICE

I, Jarrett S. Taubman, hereby certify that on this 29th day of August, 2011, I caused a true copy of the foregoing "Response to Surreply" to be served by first class mail, postage pre-paid (or as otherwise indicated), upon the following:

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