

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

In the Matter of

Intelsat License LLC

Application to Modify Authorization for  
Intelsat 5

Application for Special Temporary  
Authority

File Nos. SAT-MOD-20140829-00097  
SAT-STA-20140502-00047

Call Sign: S2704

**RESPONSE OF INTELSAT LICENSE LLC**

Intelsat License LLC (“Intelsat”), by its attorneys, responds to the Comments of ABS Global, Ltd. (“ABS”) regarding the above-referenced applications for special temporary authority (“STA”) and permanent authority to operate the Intelsat 5 satellite (call sign S2704) at the 157.0° E.L. orbital location. As the Commission is aware, the Intelsat 5 satellite is replacing the Intelsat 706 satellite (call sign S2401) at the 157.0° E.L. orbital location.<sup>1</sup> Intelsat is relocating Intelsat 5 to ensure continuity of service to customers currently receiving service from the Intelsat 706 satellite, which is expected to be de-orbited in November 2014. ABS asks the Commission to delay Intelsat’s continued use of C-band frequencies at 157.0° E.L. pending completion of a new coordination agreement.<sup>2</sup> The Commission expeditiously should reject this attempt by a non-U.S.-licensed satellite operator to manipulate the FCC’s licensing processes in

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<sup>1</sup> Application of Intelsat License LLC to Modify Authorization for Intelsat 5, Call Sign S2704; File No. SAT-MOD-20140829-00097 at 3 (filed Aug. 29, 2014) (“Intelsat 5 Modification Application”).

<sup>2</sup> Comments of ABS Global, Ltd., File Nos. SAT-MOD-20140829-00097 and SAT-STA-20140502-00047 (filed Sept. 19, 2014) (“ABS Comments”).

order to gain leverage in ITU coordination negotiations regarding future services on a satellite with lower ITU priority, to the detriment of current Intelsat customers.

By way of background, Intelsat has operated the Intelsat 706 satellite at the nominal 157.0° E.L. orbital location since February 2013.<sup>3</sup> Prior to that, Intelsat 701 operated at the location.<sup>4</sup> Intelsat 5 will replace Intelsat 706 at 157.0° E.L., and will use the same operating parameters as Intelsat 706 to serve the same customers as Intelsat 706.<sup>5</sup> Intelsat understands that ABS seeks to use its ABS-6 satellite, which recently began operating at 159.0° E.L., to provide new services from 159.0° E.L. Intelsat and ABS are currently engaged in coordination discussions to try to facilitate new operating parameters sought by ABS to provide its planned, but as of yet non-operational, services. Intelsat has in good faith engaged in negotiations and responded to all requests for information from ABS.

ABS's comments fail to disclose the very determinative fact that Intelsat's (U.S.) ITU filing at 157.0° E.L. has priority over ABS's (Papua New Guinea) ITU filing at 159.0° E.L. Any suggestion that Intelsat is required to complete coordination with ABS in order for Intelsat to continue serving existing customers on C-band frequencies is simply wrong. Intelsat has completed all the required coordination for its operations at the 157.0° E.L. orbital location and

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<sup>3</sup> Request for Further Extension of Special Temporary Authority to Drift Intelsat 706 and Request to Begin Operations, File No. SAT-STA-20130206-00017 (stamp grant Feb. 14, 2013). Intelsat 706 recently was moved to 156.9° W.L. prior to the arrival of Intelsat 5. *See Policy Branch Information; Actions Taken*, Report No. SAT-00402, File No. SAT-STA-20140917-00101 (Sept. 19, 2014) (Public Notice); *Policy Branch Information; Actions Taken*, Report No. SAT-01029, File No. SAT-STA-20140627-00081 (July 18, 2014) (Public Notice). Intelsat 706 is expected to remain at that slightly offset location until it is de-orbited.

<sup>4</sup> *See* Intelsat License LLC, Application to Modify Authorization for Intelsat 706 (S2401), File No. SAT-MOD-20121026-00188, Narrative at 2-3 (stamp grant Aug. 6, 2014) (explaining that Intelsat 706 would replace Intelsat 701 at 157.0° E.L.).

<sup>5</sup> *Id.*

the relevant filings have been notified in the ITU Master Register. Pursuant to Article 9 of the ITU's Radio Regulations, it is ABS, with its junior ITU filing, who must seek coordination with Intelsat for ABS's new services.<sup>6</sup> As noted above, Intelsat has entered into good faith coordination discussions with ABS as required under the ITU's rules. However, these rules do not require Intelsat, with a superior ITU filing, to change its operations to allow higher power operations under a junior ITU filing. Intelsat cannot allow its current customers to receive degraded services simply to accommodate the future plans of ABS, and the ITU's rules do not require such an illogical outcome.<sup>7</sup>

ABS is clearly attempting improperly to leverage the FCC's licensing process to obtain coordination terms more favorable than the ITU requires. ABS's reference to a prior FCC proceeding involving Intelsat and Yahsat is wholly misplaced because the ITU filing used by Yahsat had ITU priority over the ITU filing being used by Intelsat in the bands at issue in that proceeding. The only remotely relevant aspect of the Yahsat proceeding is that Yahsat leveraged the FCC's licensing process to gain favorable terms in coordination agreements with Intelsat—just as ABS is trying to do here.

ABS's suggestion that Intelsat's interference analysis provided pursuant to Section 25.140(a) of the Commission's rules<sup>8</sup> should have accommodated ABS's future plans for small sized earth stations<sup>9</sup> is simply wrong. The FCC's rules do not require Intelsat to give adjacent non-U.S.-licensed operators more interference protection when replacing technically equivalent

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<sup>6</sup> International Telecommunication Union Radio Regulations, Art. 9.

<sup>7</sup> *Id.*

<sup>8</sup> 47 C.F.R. § 25.140(a).

<sup>9</sup> ABS Comments at 4-5.

satellites. Intelsat 5 operations will continue the services provided today at 157.0 ° E.L. using the same C-band frequencies and power levels as the currently operational Intelsat 706 satellite.<sup>10</sup> Distorting the FCC’s rules to favor future services operating under a foreign administration’s lower priority ITU filing over existing services operating under a U.S. higher priority ITU filing—as ABS seeks—unequivocally would harm the public interest and would set extremely bad precedent for U.S. satellite operators.

Moreover, the FCC should disregard the comments filed by ABS because they are procedurally defective. ABS admits its comments are late filed for the STA application and prematurely filed for the modification application. In fact, any comments on the STA request were required to be filed over three months ago. ABS’s claim that the untimely filing should be overlooked because it is “a small company with limited regulatory resources” has been explicitly rejected by the Commission.<sup>11</sup> Moreover, ABS’s involvement in highly sophisticated coordination discussions— and its knowledge of the FCC’s processes and how those processes might be manipulated to gain leverage in such coordination discussions—suggests the company is also capable of meeting FCC deadlines.

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<sup>10</sup> The Intelsat 5 satellite, just like the Intelsat 706 satellite, meets the power levels set forth in Section 25.212 for the C-band. *See* Letter from Susan H. Crandall to Marlene H. Dortch, SAT-MOD-20140829-00097 (filed Sept. 25, 2014). Notably, ABS never complained about the operations of Intelsat 706.

<sup>11</sup> “Businesses associated with the Commission have a responsibility to familiarize themselves with the rules and regulations that are relevant to their business.” *In the Matter of Universal Service Contribution Methodology*, Order, 26 FCC Rcd 4925, 4926 ¶ 4 (2011) (rejecting request for waiver for assessing a late filing fee where small business claimed it “failed to realize that it was required” to file a USAC Form). The FCC rules themselves require that all businesses familiarize themselves with the Commission’s rules. *See* 47 C.F.R. § 0.406 (“Persons having business with the Commission should familiarize themselves with those portions of its rules . . . pertinent to such business.”). Further, the Commission has stated that its rules “must be applied with equal force to small and large businesses alike.” *In the Matter of National Telecom PCS, Inc.*, Memorandum Opinion & Order, 12 FCC Rcd 10163, 10172 ¶ 15 (1997).

Intelsat urges the Commission to disregard the comments filed by ABS and expeditiously grant the pending STA and modification applications to ensure Intelsat's continued ability to serve its customers.<sup>12</sup> The FCC should not permit a satellite operator without any U.S. or ITU rights to misapply the Commission's rules to gain unwarranted leverage in coordination negotiations.

Respectfully submitted,

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Dated: September 29, 2014

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<sup>12</sup> Intelsat 5 is expected to be on-station at 157.0° E.L. by September 29, 2014. See Request for Further Extension of Special Temporary to Drift Intelsat 5, File No. SAT-STA-20140925-00104 (filed Sept. 25, 2014).

**Certificate of Service**

I, Pam Conley, hereby certify that on this 29<sup>th</sup> day of September 2014, a copy of the foregoing letter is being sent via first class, U.S. Mail, postage paid, to the following:

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/s/ Pam Conley  
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