

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

AC BidCo LLC

Application for Special Temporary
Authority

File No. SES-STA-20170208-00140

Amendment to Application for
Modification of Blanket License for
Operation of Ku-Band Transmit/Receive
Earth Stations Aboard Aircraft

File No. SES-AFS-20170208-00139

OPPOSITION OF INTELSAT LICENSE LLC

Intelsat License LLC (“Intelsat”) hereby opposes the above-captioned requests submitted by AC BidCo LLC (“AC BidCo”) to the Federal Communications Commission (“FCC” or “Commission”) for 60 days of Special Temporary Authority (“STA”) to communicate with the ARSAT-2 satellite with up to 200 earth stations aboard aircraft terminals (“ESAAs”),¹ and to amend its Application for Modification of Blanket License for Operation of Ku-Band Transmit/Receive Earth Stations Aboard Aircraft (“Amendment”) to add the ARSAT-2 satellite as an authorized point of communications.² For the reasons set forth below, Intelsat asks the Commission to deny AC BidCo’s STA and Amendment requests seeking to communicate with

¹ See *AC BidCo LLC, Request for Special Temporary Authority*, File No. SES-STA-20170208-00140 (filed Feb. 8, 2017) (“STA”).

² See *AC BidCo LLC, Amendment to Application for Modification of Blanket License for Operation of Ku-Band Transmit/Receive Earth Stations Aboard Aircraft*, File No. SES-AFS-20170208-00139 (filed Feb. 8, 2017) (“Amendment”).

the ARSAT-2 satellite, which was recently added to the Permitted List,³ until such time as the Argentine government upholds its obligation of reciprocal and prompt treatment of U.S.-licensed satellites seeking authorization to access the Argentine market.

I. BACKGROUND

In March 2016, Empresa Argentina de Soluciones Satelitales S.A. (“ARSAT”), a company that is wholly-owned by Argentine state-owned companies, petitioned the FCC for access to the U.S. market by requesting that the ARSAT-2 satellite, which is licensed by Argentina, be added to the Commission’s Permitted Space Station List (“Petition”).⁴ On June 27, 2016, the Satellite Industry Association (“SIA”) filed a letter in response to ARSAT’s Petition outlining the industry’s concerns with Argentina’s dilatory treatment of U.S.-licensed satellites seeking authorization to the Argentine market.⁵

As noted in SIA’s letter, the Commission adopted a rebuttable presumption “in favor of entry in considering applications to access non-U.S. satellites licensed [World Trade Organization (“WTO”)] members to provide services covered by the U.S. commitments under the WTO Basic Telecom Agreement.”⁶ A major premise of this presumption, SIA explained, is that “WTO members will live up to their agreements relative to their treatment of U.S.-licensed satellites”—in this case, the U.S.-Argentina Bilateral Agreement, which requires both countries

³ See *Policy Branch Information; Actions Taken*, Report No. SAT-01175, File No. SAT-PPL-20160304-00024 (July 22, 2016) (Public Notice).

⁴ See Petition of Empresa Argentina de Soluciones Satelitales S.A. for Declaratory Ruling to Add ARSAT-2 to the Permitted Space Station List, File No. SAT-PPL-20160304-00024 (stamp grant Jul. 21, 2016).

⁵ Letter from Tom Stroup, President of the Satellite Industry Association, to Ms. Marlene H. Dortch, FCC, File No. SAT-PPL-20160304-00024 (June 27, 2016) (“Stroup Letter”).

⁶ *Amendment of the Commission’s Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, IB Docket No. 96-111, 12 FCC Rcd 24094, ¶ 39 (1997).

to permit open access to its market by satellites licensed by the other.⁷ SIA called on Argentina to take prompt action on outstanding market access applications, many of which had been pending for years.⁸

ARSAT responded to SIA's concerns on July, 7, 2016, providing a formal statement from Argentina's Ministry of Communications (the "Ministry") on the issue.⁹ In its statement, the Ministry addressed SIA's concerns and "promise[d] to give effective treatment to the actions urged by operators belonging [to] WTO member countries."¹⁰ Indeed, the Ministry committed "to take prompt action ... to ensure ... symmetrical treatment to foreign operators, both in its policies and in practice."¹¹

The FCC, in good faith, took the Ministry at its word and granted the Petition on July 21, 2016.¹² Unfortunately, however, symmetrical treatment of foreign operators by the Argentine government has yet to materialize. Several Intelsat applications to access the Argentine market continue to languish, waiting for Argentina's promised reciprocal and prompt treatment. Specifically, Intelsat's Argentine market access requests for the Intelsat 29e and Intelsat 34 satellites have both been pending with the Argentine regulator since the first half of 2015 with no known impediment to their grant. Argentina's reluctance to grant these applications—some

⁷ Stroup Letter at 2.

⁸ *Id.* at 2-3.

⁹ See Letter from Fernando M. Montes, Representative for Empresa Argentina de Soluciones Satelitales S.A., to Ms. Marlene H. Dortch, FCC, File No. SAT-PPL-20160304-00024 (July 7, 2016).

¹⁰ Letter from Dr. Oscar Aguad, Ministerio de Comunicaciones, Argentina, to Ms. Marlene H. Dortch, FCC, File No. SAT-PPL-20160304-00024 (July 4, 2016).

¹¹ *Id.*

¹² See *supra* n. 3.

seven months after committing to take “prompt action”—is arguably a sustained violation of Argentina’s commitments to the United States.

II. U.S. EARTH STATION ACCESS TO ARSAT-2 SHOULD BE DENIED PENDING TRUE RECIPROCITY

Given that the Commission has already granted market access for the ARSAT-2 satellite, the only remaining recourse available to Intelsat for the continued functional denial of market access in Argentina is to object to the use of U.S.-licensed earth stations to serve the United States with ARSAT-2, such as has been requested by AC BidCo.¹³ Intelsat had hoped that Argentina’s representations last July, in response to the concerns raised by SIA, would have resolved the market access reciprocity problem facing U.S.-licensed satellite operators seeking to serve the Argentine market. Unfortunately, that has not been the case.

Accordingly, for the reasons set forth herein, the FCC should deny AC BidCo’s STA and Amendment seeking authority to communicate with the ARSAT-2 satellite until such time as Argentina satisfies its obligation to accord reciprocal and prompt treatment to U.S.-licensed satellites seeking to serve the Argentine market. Once those obligations have been met, Intelsat would have no further objection to grant of AC BidCo’s pending applications.

¹³ AC BidCo plans to provide service in North America using ARSAT-2 on both a temporary and permanent basis. STA at 2; Amendment at Annex 2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Crandall', written over a horizontal line.

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February 16, 2017

CERTIFICATE OF SERVICE

I, Derrick Johnson, do hereby certify that on this 16th day of February 2017, a copy of the foregoing Opposition of Intelsat License LLC is being sent via first class, U.S. Mail, postage paid, to the following:

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