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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

APR 26 2004

In the Matter of)
)
DIRECTV Enterprises, LLC) SES-LFS-20040122-00023
)
Application for Blanket Authorization for)
1,000,000 Receive Only Earth Stations to)
Provide DBS Service to the U.S. Market in)
BSS Spectrum from the 72.5°W Orbital)
Location using the DIRECTV 5 Satellite)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Received

MAY 5 2004

Policy Branch
International Bureau

PETITION TO DENY

Pegasus Development Corporation (“Pegasus”) hereby files this Petition to Deny the above-captioned application of DIRECTV Enterprises, LLC (“DIRECTV”) to use the last remaining licensed high-power, full-CONUS orbital location. As Pegasus demonstrated in previous filings in related proceedings,¹ DIRECTV’s proposal to provide direct broadcast satellite (“DBS”) service from a Canadian-licensed orbital location would undermine the Commission’s pro-competitive policies and would be contrary to FCC policy limiting the provision of such services to new entrants – a policy established a year ago in *DBAC* and reaffirmed just recently.² Neither DIRECTV’s self-proposed obligation to provide local services

¹ See Petition to Deny, File No. SAT-STA-20040107-00002 (January 7, 2004); Petition for Reconsideration, MB Docket No. 03-124 (February 13, 2004); Reply and Supplemental Comments, MB Docket No. 03-124, Files Nos. SAT-STA-20040107-00002, SAT-STA-20030903-00300 (April 5, 2004). Pegasus incorporates by reference its pleadings filed in those proceedings.

² See *In the Matter of Digital Broadband Applications Corp.*, 18 FCC Rcd 9455, at ¶ 17 (2003) (“DBAC is not a dominant incumbent in U.S. DBS services.”); *In the Matter of Pegasus Development Corporation*, DA 04-909, at ¶ 1 (March 31, 2004) (“This decision, as well as our decision to grant a similar application filed by [DBAC], should stimulate competition in the U.S.”)

to additional markets nor the Commission policy established in 1972, favoring mutual assistance by U.S. and Canadian satellite operators in times of capacity need, provide a basis for ignoring the existing *DBAC* policy and the anticompetitive results. For these reasons and those provided in Pegasus' prior confidential filing, DIRECTV's application should be denied.

Moreover, the Commission cannot consider granting the DIRECTV application without full and open disclosure of all relevant information, including the agreements between DIRECTV and Telesat regarding the use of DIRECTV 5 at 72.5°W.³ Despite the pendency of this proceeding and the proceeding involving DIRECTV's request to relocate DIRECTV 5 to 72.5°W, DIRECTV has yet to release publicly any contractual document that even references DIRECTV 5. Such a dearth of publicly-available information is insufficient for an effective, informed discussion of the substantial policy matters at issue, and the Commission should require DIRECTV to disclose fully the terms of its agreements with Telesat.

DBS market, providing consumers more alternatives in choosing subscription video providers and services.”) (emphasis added).

³ While counsel for Pegasus has reviewed and commented on alleged confidential materials, pursuant to a Protective Order, DA 04-755 (March 22, 2004), those comments are limited in their effectiveness by Pegasus' inability to engage Commission staff in *ex parte* discussions and by the inability of the public to review and consider concerns raised in the comments.

Respectfully submitted,

Pegasus Development Corporation

By:



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Dated: April 26, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was sent by first-class mail, postage prepaid, or hand delivery (*) on April 26, 2004 to the following:

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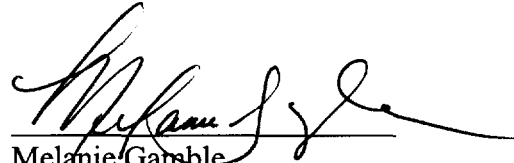
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