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

In the Matter of Application by	)	
	)	
SES AMERICOM, INC.	)	File No. SES-LIC-20070504-00563
	)	
For Authority to Provide Ku-Band Earth Station on Vessels (ESV) Services	)	

RESPONSE OF SES AMERICOM, INC.

SES Americom, Inc. ("SES Americom") hereby responds to the comments filed by Sea Tel, Inc. ("Sea Tel") with respect to SES Americom's above-captioned application for authority for a Ku-band network of terminals providing earth station on vessels ("ESV") services. Sea Tel argues that SES Americom has failed to justify its request for a waiver of the ESV antenna pointing accuracy requirements, and that waiving the ESV rules would be premature while a separate proceeding relating to terrestrial vehicle-mounted earth stations ("VMES") is pending. Both these arguments are completely unfounded.

First, SES Americom provided a detailed legal and technical justification for its waiver request, which Sea Tel does not even attempt to dispute. In a 9-page exhibit to the application, SES Americom discussed the purpose of the ESV pointing accuracy requirements and conclusively demonstrated that authorization of SES Americom's operations was fully consistent with these objectives. SES Americom ESV Application, Exhibit B.

Specifically, under long-standing Commission policy, grant of a waiver is appropriate if the relief requested would not undermine the purpose of the rule and would otherwise serve the public interest. *Id.* at 9 (citing cases). The ESV antenna pointing accuracy

requirement was intended to protect adjacent satellites from interference, as Sea Tel acknowledges. Sea Tel Comments at 3.

SES Americom's technical analysis showed that taking into account the pointing accuracy of the ESV antenna to be used in the network, the low power density of the ESV transmissions would prevent harmful interference to adjacent satellites. SES Americom ESV Application, Exhibit B at 1-7. In particular, SES Americom showed that its transmissions would comply with the Commission's off-axis e.i.r.p density limits for ESVs. The validity of SES Americom's analysis is confirmed by the fact that the operator of the satellite adjacent to the spacecraft that will be used for the ESV service executed an affidavit consenting to the proposed operations, including the specifications with regard to pointing accuracy. *See* Engineering Certification dated Aug. 8, 2006.

Sea Tel's only response is to suggest that SES Americom's off-axis e.i.r.p. showing is irrelevant because the ESV off-axis e.i.r.p. density limits do not have the same purpose as the ESV pointing accuracy requirements. Sea Tel claims that while the purpose of the pointing accuracy rule is to prevent adjacent satellite interference, the Commission adopted off-axis e.i.r.p. density limits "specifically to provide 'maximum flexibility' to ESV operators" with respect to their choice of antennas.[1]

Sea Tel is patently wrong here. Although the *ESV Order* discusses the Commission's desire to ensure that its technical requirements did not unnecessarily restrict operator flexibility, it is clear that the off-axis e.i.r.p. density limits for ESVs were adopted "to

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[1] Sea Tel Comments at 3, *citing Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925-6425 MHz/3700-4200 MHz Bands and 14.0-14.5 GHz/ 11.7-12.2 GHz Bands*, Report & Order, 20 FCC Rcd 674, 682 (2005) ("*ESV Order*").

protect FSS satellites operating in a two-degree spaced environment."[2] As a result, SES Americom's showing of compliance with the ESV limits for off-axis e.i.r.p. power density is direct evidence that its operations will adequately protect adjacent satellites.[3]

In short, SES Americom has demonstrated that under the applicable legal standard, waiver of the pointing accuracy rules for the proposed ESV network is warranted because the network will not cause harmful interference to other satellites.

Second, there is no reason to defer action on the waiver request in SES Americom's ESV application pending resolution of the rulemaking proceeding regarding VMES operations. Sea Tel notes that in the VMES rulemaking proceeding, SES Americom has argued that the ESV pointing accuracy requirements should be relaxed if an applicant makes an appropriate showing. Sea Tel Comments at 4. Sea Tel then claims that granting SES Americom's request for waiver of the ESV rules here "could prejudice" the ongoing VMES rulemaking. *Id.*

This argument should be summarily rejected. The issue before the Commission in this application is a narrow one – whether SES Americom has adequately demonstrated that a waiver of the existing ESV pointing accuracy rules is warranted under the specific facts

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2 *ESV Order*, 20 FCC Rcd at 683; *see also id.* at 682 ("The higher the off-axis power density, the greater the chance for interference to neighboring satellites."); *id.* at 716 (discussing e.i.r.p. density requirements that will "allow minor variations in the ESV antenna performance where it would not adversely affect neighboring satellites") (footnote omitted).

3 Sea Tel's failure to address the technical basis for SES Americom's waiver request is not surprising, since Sea Tel's interest here appears to be purely commercial. Sea Tel never suggests that grant of a waiver to SES Americom would pose any threat to Sea Tel operations. Instead, Sea Tel appears to be using the Commission's regulatory processes to complain that SES Americom did not choose to use Sea Tel antennas for its ESV network. Sea Tel Comments at 3 (noting that Sea Tel manufactures and markets 0.6 meter diameter ESV antennas). The Commission, however, leaves decisions concerning network design and equipment deployment to system operators – its rules are not intended to dictate commercial choices.

presented here. Whatever the Commission decides, the waiver ruling would not predetermine the outcome of future decisions regarding pointing accuracy with respect to a different service in a different proceeding. Similarly, whether or not the Commission ultimately adopts a different pointing accuracy policy for VMES operations than the one on the books today for ESVs obviously is irrelevant to the instant SES Americom waiver request. Thus, there is no reason to delay making a decision on SES Americom's application pending resolution of the VMES rulemaking.

SES Americom has shown that grant of its ESV application, including the requested waiver of the pointing accuracy rules, is consistent with Commission policies and will serve the public interest. Accordingly, SES Americom respectfully requests that the Commission dismiss the Sea Tel Comments and promptly grant the underlying SES Americom application.

Respectfully submitted,

SES AMERICOM, INC.

By: _____

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Dated: June 28, 2007

DECLARATION OF JAIME LONDONO

I, Jaime Londono, hereby certify under penalty of perjury that I am the technically qualified person responsible for preparation of the technical information contained in the foregoing response; that I am familiar with the technical requirements of Part 25; and that I either prepared or reviewed the technical information contained in the response and that it is complete and accurate to the best of my knowledge, information and belief.

/s/ Jaime Londono
Director, Satellite Market Development
SES Americom, Inc.

Dated: June 28, 2007

CERTIFICATE OF SERVICE

I, Cecelia M. Burnett, hereby certify that on this 28th day of June, 2007, I caused to be served a true copy of the foregoing "Response of SES Americom, Inc." by first class mail upon the following:

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/s/ Cecelia M. Burnett
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