

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

In the Matter of	)	
	)	
AC BidCo LLC	)	Call Sign E120106
	)	
Request for Special Temporary Authority	)	File No. SES-STA-20170208-00140
	)	
Amendment to Application for	)	File No. SES-AFS-20170208-00139
Modification of Blanket License for	)	
Operation of Ku-Band Transmit/Receive	)	
Earth Stations Aboard Aircraft	)	

**RESPONSE OF AC BIDCO LLC**

AC BidCo LLC (“AC BidCo”) hereby responds to the opposition filed by Intelsat License LLC<sup>1</sup> regarding the above-captioned AC BidCo applications seeking authority to use capacity on the Argentine-licensed ARSAT-2 spacecraft to communicate with AC BidCo’s licensed earth stations aboard aircraft (“ESAA”) terminals.<sup>2</sup> For the reasons set forth herein, the Commission should promptly dismiss the Intelsat Opposition, which raises no issues that are directly relevant to the AC BidCo Applications but instead attempts to reargue the policy decision the Commission made when it granted U.S. market access for ARSAT-2.<sup>3</sup> Because AC BidCo needs to commence use of ARSAT-2 no later than March 1, 2017 in order to meet urgent demand for additional capacity over North America, including in U.S. airspace, the Commission should expeditiously grant the STA Request and continue to process the Amendment.

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<sup>1</sup> Opposition of Intelsat License LLC, File Nos. SES-AFS-20170208-00139 & SES-STA-20170208-00140, dated Feb. 16, 2017 (the “Intelsat Opposition”).

<sup>2</sup> *AC BidCo LLC*, Call Sign E120106, File Nos. SES-STA-20170208-00140 (the “STA Request”) and SES-AFS-20170208-00139 (the “Amendment,” and with the STA Request, the “AC BidCo Applications”).

<sup>3</sup> *Empresa Argentina de Soluciones Satelitales S.A.*, Call Sign S2956, File No. SAT-PPL-20160304-00024, grant-stamped July 21, 2016 (“ARSAT-2 Market Access Grant”).

AC BidCo is currently authorized to operate Ku-band terminals with specified satellites for ESAA service in U.S. airspace, foreign airspace, and the airspace over international waters.<sup>4</sup> AC BidCo's license was issued based on demonstration that the proposed network would enhance competition in the provision of in-flight broadband service to air travelers and airline crew members and that the planned operations were fully consistent with technical standards designed to ensure protection of other authorized communications networks. In response to pressing increased demand from U.S. air carriers for services over the United States and Canada, AC BidCo is seeking to add ARSAT-2 capacity for ESAA operations.

Last July, the International Bureau granted a request to add the ARSAT-2 satellite to the Commission's Permitted Space Station List for operations in the conventional C- and Ku-band spectrum.<sup>5</sup> As a result of that ruling, any Commission-licensed earth station with "ALSAT" status "is granted authority to provide [fixed-satellite service] to, from, or within the United States by accessing the ARSAT-2 satellite."<sup>6</sup> AC BidCo proposes to communicate with ARSAT-2 in the conventional Ku-band frequencies covered by this market access grant, and AC BidCo provided evidence that its planned ESAA operations are consistent with applicable coordination agreements with operators of the satellites within six degrees of ARSAT-2.

Intelsat does not raise any specific concerns regarding AC BidCo's proposed ESAA operations or dispute the underlying public interest showing supporting the AC BidCo Applications. Instead, Intelsat raises wholly unrelated arguments alleging that the Argentine administration has failed to timely act on Intelsat applications for authority to use two of its

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<sup>4</sup> See Call Sign E120106, File No. SES-MFS-20160824-00738, granted Dec. 13, 2016.

<sup>5</sup> See ARSAT-2 Market Access Grant.

<sup>6</sup> *Id.*, Attachment to Grant at 1.

satellites to serve the Argentine market.<sup>7</sup> These claims have no bearing on the considerations relevant to the Commission’s evaluation of the AC BidCo Applications.

Granting the AC BidCo Applications will benefit U.S. consumers. The Commission adopted rules for ESAA operations in order to “enhance competition in an important sector of the mobile telecommunications market in the United States”<sup>8</sup> by enabling licensees “to bring broadband service to an underserved sector: passengers and crew aboard aircraft in flight.”<sup>9</sup> Authorizing AC BidCo to utilize capacity on the ARSAT-2 spacecraft is consistent with these objectives. AC BidCo requires additional space segment to respond to near-term demand for aeronautical services, particularly on flights through U.S. and Canadian airspace. Absent grant of the STA Request, AC BidCo will be impeded in its ability to meet these customer requirements.

Intelsat presents no countervailing public interest arguments in support of its opposition to the AC BidCo Applications. Instead, Intelsat is seeking to use the applications as leverage to serve its own business interests and asking the Commission to sacrifice the interests of AC BidCo and its customers.

Granting the AC BidCo Applications is consistent with Commission precedent.

As noted above, the Commission determined just over seven months ago that ARSAT-2 meets the applicable requirements for U.S. market access and inclusion on the Permitted Space Station

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<sup>7</sup> Intelsat Opposition at 3-4.

<sup>8</sup> *Revisions to Parts 2 and 25 of the Commission’s Rules to Govern the Use of Earth Stations Aboard Aircraft Communicating with Fixed-Satellite Service Geostationary-Orbit Space Stations Operating in the 10.95-11.2 GHz, 11.45-11.7 GHz, 11.7-12.2 GHz and 14-14.5 GHz Frequency Bands*, Notice of Proposed Rulemaking and Report and Order, IB Docket Nos. 12-376 & 05-20, 27 FCC Rcd 16510, 16511 (2012).

<sup>9</sup> *Id.* at 16513.

List. When it made that finding, the Commission was aware of concerns raised by U.S. satellite operators regarding delay in action on certain of their requests for access to the Argentine market.

Intelsat did not challenge the Commission's decision when it was issued and has not presented any new evidence that would warrant a different conclusion now. Nor does Intelsat explain how singling out AC BidCo by denying its applications when other U.S. earth station licensees can freely use ARSAT-2 capacity could possibly be squared with the Commission's obligation to accord similar treatment to similarly-situated applicants.<sup>10</sup> The Commission must reject Intelsat's invitation to revisit the grant of U.S. market access for ARSAT-2 that was conferred only last July.

Granting the AC BidCo Applications is consistent with the U.S.-Argentina bilateral agreement. As Intelsat acknowledges, the United States and Argentina are signatories to a bilateral agreement regarding processing of requests for satellite market access.<sup>11</sup> The agreement specifies that "Argentine-licensed Satellites will be permitted to provide service to, from, and within the United States, in conformance with applicable provisions of U.S. laws, rules, regulations, and licensing procedures."<sup>12</sup> Intelsat presents no rationale that would justify a Commission decision to violate these terms by denying AC BidCo authority to use ARSAT-2 capacity.

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<sup>10</sup> See, e.g., *Freeman Engineering Assoc., Inc. v. Federal Communications Commission*, 103 F.3d 169 (D.C. Cir. 1997); *Melody Music, Inc. v. Federal Communications Commission*, 345 F.2d 730 (D.C. Cir. 1965).

<sup>11</sup> Intelsat Opposition at 2-3.

<sup>12</sup> *Protocol Concerning the Transmission and Reception of Signals From Satellites for the Provision of Direct-to-Home Satellite Services and Fixed-Satellite Services in the United States of American and the Argentine Republic* (June 5, 1998) at 4, available at <http://www.state.gov/documents/organization/112469.pdf>.

The AC BidCo Applications conform to Commission requirements and seek authority that will allow time-critical expanded service to U.S. consumers. Given Intelsat's failure to present any legitimate objections, the Commission should dismiss the Intelsat Opposition, expeditiously grant the STA Request, and proceed with consideration of the Amendment.

Respectfully submitted,

AC BIDCO LLC

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of February, 2017, a true copy of the foregoing “Response of AC BidCo LLC” is being sent by e-mail, to the following:

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