

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

In the Matter of	)	
	)	
SES SATELLITES (GIBRALTAR) LTD.	)	File No. SAT-PPL-_____
	)	
Request to Add SES-11 to the Permitted	)	
Space Station List for C-band Operations	)	

PETITION

SES Satellites (Gibraltar) Ltd. (“SES Gibraltar,” doing business as “SES”) hereby respectfully requests that the Commission authorize the Gibraltar-licensed conventional C-band payload on the SES-11 spacecraft to serve the U.S. market from 104.95° W.L.¹ At that location, SES-11 will replace the C-band capacity currently being provided using the Gibraltar-licensed AMC-18 satellite. Specifically, SES requests that the Commission add SES-11 to the Commission’s Permitted Space Station List (“Permitted List”) for fixed-satellite service (“FSS”) and telemetry, tracking and control (“TT&C”) operations in the conventional C-band. Grant of the requested authority is consistent with Commission precedent and will serve the public interest by allowing SES to continue its C-band services from 104.95° W.L.

A completed FCC Form 312 is attached, along with technical materials on Schedule S² and in narrative form pursuant to Section 25.114 of the Commission’s rules.

¹ The SES-11 satellite network has been submitted for coordination to the International Telecommunication Union pursuant to the following filings of the Gibraltar Regulatory Authority: GIBSAT A1.

² In completing the Schedule S, SES has relied on the most recent Schedule S instructions. Consistent with those instructions, in cases where the Schedule S software requests information that space station applicants are no longer required to provide, SES has omitted data elements, or where necessary to permit validation of the Schedule S file, has entered a “1” as a placeholder. SES specifies that these “1” data entries are outside the scope of the certifications herein regarding accuracy of the information provided with this petition.

Construction of SES-11 is nearing completion, and SES currently expects to launch the spacecraft in the 4th quarter of 2016. SES seeks action on this petition consistent with that schedule.

I. BACKGROUND

SES Gibraltar currently operates the Gibraltar-licensed AMC-18 C-band spacecraft at 104.95° W.L., and that spacecraft has been placed on the Permitted List.³ AMC-18 provides a variety of high-quality video services to the North American market.

SES-11 will provide follow-on service at 104.95° W.L. As in the case of AMC-18, SES-11 will operate on a non-common carrier basis. In addition to its conventional C-band payload, SES-11 has a conventional Ku-band payload and is capable of operating in Ka-band spectrum. SES Americom, Inc., an affiliate of SES Gibraltar, is separately seeking U.S. authority to launch SES-11 and operate it in the Ku-band frequencies. SES is not requesting operational authority for the SES-11 Ka-band payload.

II. AUTHORIZING SES-11 TO PROVIDE FSS IN THE U.S. IS CONSISTENT WITH FCC POLICIES AND THE PUBLIC INTEREST

SES is a leading provider of satellite communications services in the United States and around the world. The application to serve the U.S. using the proposed SES-11 satellite's C-band payload reflects SES's continuing commitment to meeting the existing and future needs of customers. Granting U.S. market access for SES-11 will enable SES to provide C-band service continuity at the 104.95° W.L. orbital location for the benefit of U.S. satellite

³ See *SES Satellites (Gibraltar) Ltd.*, Call Sign S2713, File No. SAT-PPL-20061006-00118, grant-stamped Dec. 7, 2006.

service customers. Furthermore, grant of market access for SES-11 is consistent with the Commission's *DISCO II* policies.⁴

A. SES is Entitled to a Replacement Expectancy at 104.95° W.L.

The Commission has expressly recognized a replacement expectancy for geostationary ("GSO") satellite operators:

Given the huge costs of building and operating GSO space stations, we have found that there should be some assurance that operators will be able to continue to serve their customers. Therefore, the Commission has stated that, when an orbit location remains available for a U.S. satellite with the technical characteristics of the proposed replacement satellite, it will generally authorize the replacement satellite at the same location.⁵

Furthermore, the Commission has made clear that foreign-licensed satellite operators are entitled to a replacement expectancy as well:

We afford non-U.S.-licensed satellites the same replacement expectancy as we do U.S.-licensed satellites. That is, we will permit the proposed replacement satellite to access the U.S. market provided that the location remains available to a satellite authorized by the Administration that authorized the existing satellite, and the technical characteristics of the proposed replacement satellite allow it to be assigned to the location.⁶

The proposal to deploy SES-11 to provide follow-on C-band capacity at 104.95° W.L. conforms to these policies. Like AMC-18, SES-11 is licensed by Gibraltar, and is

⁴ See *Amendment of the Commission's Policies to Allow Non-U.S. Licensed Space Stations providing Domestic and International Service in the United States*, Report & Order, 12 FCC Rcd 24094 (1997) ("*DISCO II*").

⁵ *Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760 at ¶ 250 (2003) (footnotes omitted).

⁶ *Id.* at ¶ 324.

authorized to operate at the same orbital location on the same frequencies. The Commission's replacement expectancy policies are designed to promote service continuity, and granting U.S. market access for SES-11 in the conventional C-band is consistent with that objective.⁷

B. SES-11 Qualifies for U.S. Market Access under *DISCO II*

In the *DISCO II* proceeding, the Commission adopted policies for determining whether to permit foreign-licensed satellites to serve the U.S. market, and these standards are codified in Section 25.137 of the Commission's Rules.⁸ The Commission's policies are intended to ensure that entry by a foreign-licensed satellite will not distort competition in the U.S.⁹ The Commission also considers whether there are spectrum availability issues or concerns relating to national security, law enforcement, foreign policy or trade that would present an obstacle to U.S. market access.¹⁰ SES Gibraltar's request to add SES-11 to the Permitted List in the conventional C-band fully complies with the Commission's requirements.

In *DISCO II*, the Commission adopted a presumption that, with respect to services covered by the WTO agreement, entry into the U.S. market by entities licensed by WTO member

⁷ Because SES-11 is a replacement satellite, the Commission should conclude that its performance bond requirements are inapplicable. Section 25.165 generally requires that satellite licensees post a performance bond, but exempts replacement satellites from this obligation. See 47 C.F.R. §25.165(e). Section 25.137(c)(4) makes clear that foreign-licensed satellites seeking U.S. market access are subject to the same bond requirements specified in Section 25.165. As discussed above, SES is seeking market access for SES-11 to operate only in the conventional C-band frequencies for which AMC-18, the satellite it is replacing, is authorized. Accordingly, SES-11 should not be deemed subject to a bond requirement.

⁸ 47 C.F.R. § 25.137.

⁹ *DISCO II* at ¶ 7.

¹⁰ See *id.* at ¶ 178.

countries will promote competition in the U.S. market.¹¹ FSS operations except for DTH are covered by the WTO agreement.¹²

SES seeks authority to use SES-11 to provide FSS services to U.S. customers. Gibraltar, the licensing administration for SES-11, is a British Overseas Territory. The United Kingdom is responsible for the external relations of its territories, while each territory is responsible for its domestic law.¹³ Through the United Kingdom, Gibraltar is a WTO-member country. Accordingly, the SES proposal to provide WTO-covered services is subject to the presumption in favor of entry described above.

Allowing SES to use SES-11 to offer FSS to, from, and within the U.S. will promote competition and is otherwise consistent with the *DISCO II* framework. Therefore, the Commission should add SES-11 to the Permitted List for services in the conventional C-band.

III. THE COMMISSION SHOULD GRANT ANY NECESSARY WAIVER OF SECTION 25.210(i)(1) FOR SES-11

SES seeks a limited waiver of Section 25.210(i)(1) in connection with the petition for SES-11 U.S. market access authority. Grant of this waiver is consistent with Commission policy:

The Commission may waive a rule for good cause shown. Waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule. Generally, the Commission may grant a waiver of its rules in a particular case if the relief requested would not undermine the policy objective of the rule in

¹¹ *Id.* at ¶ 39.

¹² *Id.* at ¶¶ 25 & 30.

¹³ Under the Colonial Laws Validity Act 1865 of the United Kingdom, the local legislative body of a British Overseas Territory is empowered to make laws for the “peace, order and good government” for that territory only, subject to a presumption that such laws cannot have extraterritorial effect.

question and would otherwise serve the public interest.¹⁴

Section 25.210(i)(1) sets a 30 dB minimum for cross-polarization isolation performance in the primary coverage area of a satellite using FSS frequencies.¹⁵ The design specification for SES-11 in the FSS frequency bands provides for a minimum cross-polarization isolation of 30 dB, and that level is exceeded in most of the coverage area. However, the worst-case levels are below 30 dB in some beams.

The Commission has recently determined that the FSS cross-polarization requirement is no longer necessary,¹⁶ and Section 25.210(i)(1) will therefore be deleted when the Part 25 Second Order takes effect. Moreover, the Commission has routinely granted waivers of Section 25.210(i)(1) based on a finding that the primary effect of any increased interference is on the satellite operator itself,¹⁷ which can manage the interference internally. SES confirms that the cross-polarization isolation performance of the SES-11 communications payload will not increase interference to adjacent satellites, and the self-interference impact will be managed by SES. Accordingly, if Section 25.210(i)(1) is still in effect when the Commission acts on this petition, granting a waiver of the rule for SES-11 is consistent with applicable precedent.

¹⁴ *PanAmSat Licensee Corp.*, 17 FCC Rcd 10483, 10492 (Sat. Div. 2002) (footnotes omitted).

¹⁵ 47 C.F.R. § 25.201(i)(1).

¹⁶ *See Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, IB Dkt No. 12-267, FCC 15-167 (rel. Dec. 17, 2015) (“Part 25 Second Order”) at ¶¶ 331-333.

¹⁷ *See, e.g., New Skies Satellites N.V.*, Call Sign S2828, File No. SAT-PPL-20110620-00112, grant-stamped Mar. 15, 2012, Attachment at 2 (waiving Section 25.210(i) for SES-4 based on a finding that shortfalls in the cross-polarization isolation performance “will not produce a significant increase in interference, except to the space station itself, and will not adversely affect any other operator.”).

IV. CONCLUSION

For the foregoing reasons, SES respectfully requests that the Commission add SES-11 to the Permitted List for FSS operations and TT&C in the conventional C-band.

Respectfully submitted,

SES SATELLITES (GIBRALTAR) LTD.

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